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H.R. 2406, THE UNITED STATES HOUSING ACT OF 1995

FRIDAY, OCTOBER 13, 1995

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC.**

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2128, Rayburn House Office Building, Hon. Rick Lazio [chairman of the subcommittee] presiding.

Present: Chairman Lazio, Representatives Bereuter, Castle, Ehrlich, Kennedy, Vento, Velazquez, and Frank.

Also present: Representative Bonilla.

Chairman LAZIO. Good morning. The subcommittee shall come to order.

I want to welcome everyone this morning to what promises to be a very important subcommittee hearing. I appreciate the attendance of the panelists who are coming from various distances to be here today. This is the third hearing on H.R. 2406, the United States Housing Act of 1995.

I want to begin by mentioning to the panelists that the House is not in session today and is not expected to have votes. Members are back in their districts so we are not having the attendance that otherwise we might have. It is impossible to schedule these hearings with the certainty that we are going to have Members as a result of votes on the House floor.

We have a tremendous opportunity this year. We have a mandate for change, and for better or worse we have a department in an era of policy that is ripe for change. The Department of Housing and Urban Development is a 30-year-old organization operating on 60-year-old programs.

The U.S. Housing Act of 1937, the primary law governing housing programs in this country, is a Depression-era program that can no longer serve the needs of modern America. H.R. 2406 repeals the Housing Act of 1937 and takes the focus of housing policies away from Washington and puts it where it belongs, in our communities and in our neighborhoods.

There has been a lot of rhetoric tossed around about the need to make public housing a tool for families that need transitional assistance, to provide assistance to the working class who are so important to maintaining the viable communities in our inner cities. This bill makes Federal housing assistance what it was designed

to be, a step toward greater things, a program that you graduate from and then move on.

With the exception of the elderly, disabled, and others with special needs, H.R. 2406 makes housing assistance transitional, not in the punitive sense but by combining opportunities with responsibilities on the part of both the provider and the recipient of individuals of assistance. H.R. 2406 creates less bureaucratic structure. It gives greater power to nonprofits and others whose skill at management is far greater than the Federal Government's. It builds competition. It allows for more mixed-income and mixed-use developments, breaking down barriers to mobility, the barriers that trap too many and run down projects in hopeless areas.

This legislation also brings to public housing a true sense of accountability through enforceable measures and an end to tolerating failure, and I want to emphasize that. If this bill does one thing, it ends the toleration of chronic failures that trap residents in substandard housing year after year after year.

The Federal Government does not exist to do the work of local communities. It exists to make sure that local communities, neighbors working together, can make their homes, their own neighborhoods stronger and healthier. Not everyone agrees with me. Too many remain committed to the outdated concept that the Federal Government knows best that Washington can understand problems better than local communities. It is time to reject that idea because 60 years of experience and Federal housing programs has clearly shown otherwise. Though Secretary Cisneros has struggled against the status quo, his testimony before the Senate last week and his prepared testimony for today both reflect a philosophy clearly grounded in the "Washington knows best" mind-set.

We have to stop making tenants pay the price for Washington's insatiable appetite for power. As chairman of this subcommittee, I intend to bring the government's role in housing and economic development into the 21st century.

I am anxious to hear from all of you this morning about your feelings on H.R. 2406. I also look forward to the testimony of Secretary Cisneros who will testify later this morning on the second panel. His reaction to the proposals of H.R. 2406 I am sure will be helpful in perfecting this legislation.

As I did 2 weeks ago at our first hearing on this bill, I urged Members on both sides to focus on good policy. I appreciate the input I have had from several Members and their staffs on improving this bill for both Democratic and Republican sides of this aisle and I hope they will continue to do so as this process moves forward.

Before we go any further, I would like to recognize a group who is visiting with us today. A couple of weeks ago I expressed appreciation to one of our witnesses who had come all the way from Alaska to testify, but today she has been outdone. I welcome the delegation from the Hong Kong Housing Authority and hope our experience here can be of some value as you set up a housing system in Hong Kong, particularly through this transitional period beginning in 1997. I am sure that if the subcommittee lives up to its reputation, the dialogue will be interesting. We look forward to

working with you and provide any assistance we can. We are honored to have you here today. Welcome.

Mr. Castle.

[The prepared statement of Chairman Rick Lazio can be found on page 64 of the appendix.]

Mr. CASTLE. Well, thank you very much, Mr. Chairman.

I would like to welcome our Hong Kong visitors, too. Having been to Hong Kong, I know housing is a very difficult subject area. You have got your work cut out for you.

I was talking to Miss Garcia before this all began and, you know, I always worry about us not being here. And, frankly, I am going to have to leave very briefly after I speak here because of other commitments. But the important sense of this is that your input is vitally important. Our subcommittee staff people will, and the chairman in particular, will take very careful note of it; it will be inputted into the legislation. Eventually it comes done in this subcommittee, then in the committee, then in through Rules and the House and eventually into legislation, so don't believe because people are not here that you are not being heard. You are being heard. Besides, C-SPAN is covering you anyhow so maybe the whole Nation is hearing you today.

Let me just start by saying something I have said before, that is praising the chairman, Mr. Lazio, for H.R. 2406, the United States Housing Act of 1995. We always give them big names. I have read this as carefully as I can, and I believe that it really is creative. It really does bring housing not into the 20th century which it almost needed but into the 21st century. It really does provide options, opportunities, community input.

I don't know, I have not read Mr. Cisneros' testimony for today, but my judgment is that he is also a progressive individual and would welcome many of the thoughts which are here. And I am sure that perhaps you have some suggestions for changes, as he perhaps might, and I am sure everyone is concerned about funding. But the bottom line is that there is a lot of good here.

I was Governor of my State, Delaware, for a number of years and we were blessed with very good housing authorities but with difficult problems, the city of Wilmington versus the rural areas around Dover, Delaware. We had to deal with different subject matters, and flexibility from regulatory process was extremely vital to those individuals, I think, in carrying out their missions. And I think that makes really a tremendous difference in terms of what we are doing, giving more power to the local housing authorities, giving more power to local governments, making it less rigid throughout the United States of America, allowing the not-for-profits who are a major player I believe in housing in the country, I know they are in Delaware, more authority to go forward with what they have to do are all vital steps that we need to take.

So I think we are on a mission here which ultimately can help all of us. I believed in welfare reform long before people talked about welfare reform. I believe that housing, public housing reform is a part of that to some great degree. It is all integrated together, if you will, and I think it is important that we all work on this in every way we can to try to help each other.

And I am not trying to say that there are not problems. There are problems in virtually every housing authority or every housing project we have in this country, but there are many, many good things. But I must say that what has impressed me the most I think is—this is the third of these hearings; is it not?

Chairman LAZIO. Yes.

Mr. CASTLE. I have attended parts of the other two hearings—are you, the individuals who are coming forward who have really done a magnificent job of running different aspects of housing programs in this country who have really great thoughts. I don't think anyone realizes how many of you are out there who have really done exceedingly good work in making a difficult system a lot better. I think from you we are learning a lot, so we thank you for not just being here today but for your leadership day in and day out. It has made a huge difference and I am sure that the testimony you will provide today will add to that, and with that, I yield back, Mr. Chairman. Thank you for the opportunity.

Chairman LAZIO. I thank the gentleman from Delaware, and I also want to acknowledge his help in this bill and in other pieces of housing legislation that we are currently developing. His progressive thinking, and particularly his experience as an outstanding Governor will continue to serve the American people well.

Mr. Vento.

Mr. VENTO. Thanks, Mr. Chairman.

I appreciate the witnesses that are here today and the effort that they have made to participate in establishing a policy path, a rational policy path with regard to assisted and public housing, especially appreciate some familiar, a familiar face, at least to me, Mr. Simons at the table, who has long worked on housing policy, both in the private, nonprofit and as a public official in the past administrations.

The challenge today I think largely with housing is the increasing cost of housing and the decreasing income of those that are attempting to attain housing and meet their other needs, and as housing has never been an entitlement basis, and even as we have had entitlements, there is a move away from it in terms of assuring people of housing.

We have had greater and greater problems. I think most of us that have been students of it have observed the phenomenon in recent years which I think we would hope not to have seen, issues of homelessness, issues of special problems. I think, though, at the core of it, I find that a lot of the public and assisted housing programs really work, but it is a dynamic in which people move through the system, whether it can be made more efficient in terms of serving them, in terms of assisting them to make their way to—and then on the—in making their way to have affordable and decent and quality housing is questions whether we can make these dollars stretch further.

Obviously, the challenges today are to do that. But the needs that we see in our communities at the State or at the local levels especially are even more acute, and I know that our States, many of our States are, and nonprofits, really are functioning, working on overload. They can't meet that need alone. Certainly, they need a partnership with the Federal Government. And we have changed

that and changing the nature of that partnership probably is something that has been going on for some time. I think we have long moved away from the issue where we were providing all of the funding.

As I said, we started the seed money and sometimes as I look at what is happening today, I think you will take away the seeds, Mr. Chairman, and all we are going to be left with is the fertilizer. So I would guard against that.

I think we need a little more than that. I think we need to keep commitments and maintain the housing stock. I think that the bottom line is that a lot of it has been successful and is expensive. I don't think there is any easy formula for eliminating some of the costs in terms of housing; they are pretty difficult. They are pretty firm in terms of where they are going. But I am certainly willing to look to change and to try to work in a positive vein but I hope that we keep—I think there are certain limitations that we are operating within in terms of incomes, in terms of needs and costs that are—tends to frustrate the efforts that we will make, but, nevertheless, I look forward to a positive effort with the committee.

Thank you, Mr. Chairman.

Chairman LAZIO. I thank the gentleman. I thank him for his constructive comments. Of course the appropriations process is a different track than we run on and our effort is to try and conform to the reality of what we are going to be dealing with, however you feel about that. But I do appreciate the gentleman's comments.

We are joined by a good friend and a great Member of Congress from Texas' 23rd District, Congressman Henry Bonilla, who I would like to recognize.

Mr. VENTO. Without objection. I don't object. Without objection. He is not a member of the subcommittee.

Chairman LAZIO. Without objection.

Mr. BONILLA. I thank the Chairman and I thank my colleagues, Mr. Vento and Mr. Castle, for allowing me a moment here today.

I am here this morning because I have a special constituent that will testify before your panel in just a couple of minutes, and I am very proud to be here today to introduce her, and if you will permit me just to talk about her for a moment and she will testify shortly thereafter.

Christina Garcia is here today. Christina is from San Antonio. She has over 17 years' experience in real estate management of multifamily and commercial properties. Christina is Vice President of Wildwood Management Group, which is a San Antonio-based property management company specializing in multifamily management throughout the State of Texas.

Christina's specialty is in management of properties under affordable housing programs. She is recognized as a certified instructor through the National Apartment Association and teaches courses on government-related housing programs for the certified apartment manager designation courses. Ms. Garcia also serves on the board of directors of the Texas Apartment Association where she has served for over 6 years now.

She has dedicated much of her time to advocating for housing for low-income families. She has testified before this subcommittee before and she has on behalf of the National Apartment Association,

the National Multi Housing Council on ways to improve the section 8 program for private ownership and for low-income families. She was awarded the Profiles In Leadership Award by the Mission City Business and Professional Women in November 1994 for her leadership roles in the San Antonio community. She was also the recipient of the prestigious Stanley Hamner Award given by the San Antonio Apartment Association in November of 1994 for housing outstanding contributions to the San Antonio area apartment market.

In April, 1995, Christina was honored by the Texas Apartment Association with the Frank P. Finch Presidential Memorial Award for her contributions to the Texas Apartment Association. So you can see, Mr. Chairman, that she has a tremendously impressive list of credentials, and it is with great pride that I am able to spend a couple minutes with her here today to introduce her, and I thank you for your time.

Chairman LAZIO. I thank the gentleman and I thank him for his efforts in acknowledging a great constituent.

Now I would like to introduce the panel and thank them again this morning for attending. Let me begin with a few remarks about those who are scheduled to testify who are presently facing the subcommittee.

First, Lawrence Simons, good morning. Larry Simons served as Assistant Secretary for Housing and was FHA Commissioner in the Carter Administration. Prior to that service, he built and developed housing. While at HUD, Mr. Simons was responsible for the public housing program and was the chief architect of the section 8 program. His perspective on how to make federally assisted housing work better in the 21st century is tempered by his understanding of how the programs worked. I appreciate you being here today, Mr. Simons.

Paul Graziano. Mr. Graziano is President of the National Leased Housing Association and is the General Manager of the New York City Housing Authority, an authority which defies the commonly held notion that all large inner city housing is distressed. In fact, it is one of the finest housing authorities in the Nation.

Christina Garcia, who was just introduced by Congressman Bonilla, again thank you very much for being with us.

Charles Di Maggio, good morning. Mr. Di Maggio represents the National Assisted Housing Management Association and the Apartment and Building Owners of Greater New York. Like Ms. Garcia, Mr. Di Maggio has worked diligently to ensure that the section 8 program is more readily accepted in the private sector. I appreciate you being with us here today.

Charles Wilkins, good morning. Mr. Wilkins is the Senior Vice President of the National Corporation for Housing Partnerships and has extensive experience developing, operating, and financing affordable housing, both subsidized and unsubsidized for families. His perspective is based on how to channel private investment into affordable housing, a very important perspective, and a goal which we hope is advanced in H.R. 2406.

Judy England-Joseph. I want to express our particular thanks for all the hard work you have done on behalf of this subcommittee. All of us are familiar with Judy and the work of the Housing and

Community Development Division at GAO. I would like to thank her personally, on behalf of my staff, for all the work she has conducted for the subcommittee over the years.

The reports GAO provides are insightful, generally providing food for thought. Additionally, the staff is responsive to us on a short notice. We appreciate your work and are glad to have you here this morning.

Finally, Susan Gaffney. Again, I am pleased to welcome HUD's Inspector General to testify before the subcommittee. Like GAO, the IG and her staff have been extremely helpful to me and the subcommittee staff.

I think it is fair to say that the IG's position is not always a thankful one given the responsibility they have to audit the performance of HUD, an agency which is deeply troubled.

Over the last several years, the IG has raised the level of concern about the manner in which the public housing programs are operated and administered by HUD. I want to take an aside and say I have understood that from time to time people may have asked you to back off from your duty to provide critical and thoughtful analysis to what are troubled programs. Their focus ought to be on the programs they are critiquing, not on you, and I want to extend my special gratitude and respect to you for standing up to what might be considered by some as pressure. Good morning.

Mr. Simons.

**STATEMENT OF LAWRENCE SIMONS, FORMER ASSISTANT
SECRETARY FOR HOUSING, FHA COMMISSIONER, HUD**

Mr. SIMONS. Thank you, Mr. Chairman, for a most glowing introduction. My experience tells me——

Chairman LAZIO. Well deserved.

Mr. SIMONS. My experience tells me it would be best to sit down at this point. I want to thank you, though, for the opportunity to testify before you today concerning H.R. 2406. I want to commend the subcommittee on realizing that current housing programs and policies do not meet today's needs. On the other hand, the subcommittee must recognize that the shortcomings of programs and policies in effect today are not necessarily indicative that when they were originally implemented they were wrong or flawed. And I think if you bear with me, I would like to do a little historical perspective on public housing, which is part of H.R. 2406. When it was originally conceived, public housing was for the "working poor," as we called them back in the 1930's. In 1937, the only government subsidy was basically for the capital to build the buildings. There were income floors. People had to be working. They had to pay rent. They eventually served those people who were low, middle-income, as we used to call them in those days, but today we would call them the working poor.

President Carter has lived in public housing in his lifetime. Many people in my own community who were professors at that time lived in public housing. In 1968, Congress in its wisdom decided to change the requirements of public housing to limit the contribution for rent to 25 percent of income. With that came a complete change in the tenancy and what was going on in public housing because no longer did you have to meet a floor rent. You were

able then at that time to just pay 25 percent of your income, and we brought into being the performance funding subsidy which was to supplement the income to the public housing authorities to make up for this loss of income.

As we moved on at that time, the eligibility range for public housing was 80 percent of median income. When we got to the early 1980's, we immediately changed that back to 50 percent. And Congress did it because there was a reason: Money was getting tight. There was a theory at that time that we would give it to the neediest, the safety net approach.

What we have done since the early 1980's is convert public housing into housing of last resort for the very poor. Combining paying just a percentage of income with 50 percent of the median income cap has resulted in structuring public housing as the warehousing of the poor, as Secretary Cisneros has pointed out.

It is very interesting because in my day when I ran public housing, the median income, the average median income of the tenant at that time was around 28 percent, 29 percent of median income with an 80 percent ceiling. Congress was pressuring the department at that time to raise the income levels, to get a better mixed income tenancy, which would save money and would also change the nature of the tenancy in many of these public housing authorities.

Today, with the change to 50 percent of median income, with the preferences that are required, we are down to an average of 14 percent of median income as the average income of a tenant in public housing. That is really unconscionable and untenable.

I don't want to get into the debate that is now occurring, whether we are going to use a tenant-based subsidy or project-based subsidy in the future. That is a debate for another place. The decision seems to have been made that we are going to use a tenant-based subsidy.

I think the problem facing you in your authorization bill and the entire committee is how do we get from where we are, a program which was structured properly, did its job but has been changed to try and serve different types of needs now is going to be changed to serve another need. I think in H.R. 2406 you start to attack that. You go back to the 80 percent of median income. You change the preferences. And I think in doing that you will give the public housing authorities an opportunity to again reconstitute the tenancy, and also by introducing the floor rent, reconstitute a tenancy which will make possible for them to upgrade and bring these public housing authorities back into a competitive market position.

Now, not all public housing authorities are a disaster. Paul Graziano has New York City, one of the toughest jobs of all. This place is far from a disaster. I will tell you that most public housing in this country is sound and fiscally sound. The challenge is before we go ahead and change over to a voucher system, give them an opportunity really to go ahead and restructure their tenancy into a more mixed-income basis.

The other issue as far as then turning to a block grant, which has me very nervous, is the question of capacity. The New York City Housing Authority, and there are some very fine housing authorities around the country, has the capacity. The capacity is a

very serious question when you deal with public housing authorities because it is not there. We know that. And the methodology by which we go ahead and try and re-create this capacity has to be carefully structured into any block grants you are going to give. Do not give them too much freedom with these block grants. Set out the goals and set out definitively the standards which they must meet. You do that. That may seem like Federal interference to you, but on the other hand, it is the only way that you are going to build the capacity out there.

Experience has shown us that with community development block grants and other similar programs that strict goals and guidelines that are flexible enough will do the job.

What we are dealing with here is a change in the delivery system. We are going back to giving the localities and the States even more power in the delivery system of housing than they have had in the last 15 years. It has been evolving that way. There is no sense fighting it. But while giving them a delivery system, we must at the same time give them some guidelines and some expectations that we expect them to fulfill.

One quick point. In creating your local housing authorities, I see you are mandating a tenant representative. I would strongly urge you to also mandate a political representative, a representative, the elected official of that area. That elected official has the responsibility for bringing the services to those projects.

Therefore, my experience when I was in government taught me that if I didn't have a mayor cooperating with the public housing authority, I had problems with the public housing authority. You have got to give the mayor a piece of responsibility in this.

Finally, on your efforts to make section 8, existing, more appealing to the private sector, I commend you on that. I do say that we do not need to raise the existing section 8 to 80 percent of the median income. I think all project-based subsidies should be raised to 80 percent of median income but 50 percent of income is good enough on the existing side. We have to take care of the very poor. As you go to 80 percent and expect a change in the tenancy and the project-based subsidy in those projects which we have to save, you would then expect to take care of the very poor with the existing section 8.

Thank you very much. I want to commend your efforts. But simply sending the dollars to localities runs the risk of hurting tenants and losing a housing stock which represents a huge Federal investment. I believe we can save that investment and at the same time make the transition to the policies which you desire.

H.R. 2406 deals very well, as you will hear from the other witnesses this morning, with the existing section 8 program and the changes in the voucher program. I do not believe it has been given enough thought as far as the other elements I have discussed.

Thank you very much. I will be happy to take any questions.

[The prepared statement of Mr. Lawrence Simons can be found on page 67 of the appendix.]

Chairman LAZIO. Thank you very much.

When you were referring to President Carter being involved in public housing, you weren't talking about the White House, were you?

Mr. SIMONS. No. Happened to be in Georgia.
Chairman LAZIO. Paul Graziano.

STATEMENT OF PAUL GRAZIANO, PRESIDENT, NATIONAL LEASED HOUSING ASSOCIATION AND GENERAL MANAGER, NEW YORK HOUSING AUTHORITY; ACCOMPANIED BY DENISE B. MUHA, EXECUTIVE DIRECTOR, NATIONAL LEASED HOUSING ASSOCIATION; AND CHARLES L. EDSON, GENERAL COUNSEL, PEABODY & BROWN

Mr. GRAZIANO. Thank you, Mr. Chairman.

Good morning and good morning to the members of the subcommittee. My name is Paul Graziano. I am the General Manager of the New York City Housing Authority and the President of National Leased Housing Association. I am accompanied today by Denise Muha, the Executive Director of the association and Charles Edson of the law firm of Peabody & Brown, our general counsel. We have submitted written testimony for the record. I will summarize some of our thoughts today orally.

The section 8 program, existing program, has been successful in providing housing opportunities for nearly 1.5 million families throughout the country. In New York City alone with a participation of 24,000 landlords, the certificate and voucher programs ensure affordable rents and decent housing for over 71,000 families.

Section 8 tenant-based and project-based assistance programs have been successful, in part, because they provide for differing needs in differing markets. As the years have passed, however, new rules and regulations and a proliferation of set-asides, what you, Mr. Chairman, have referred to as "boutique" programs, have all weakened the section 8 program and have increased the administrative expenses, diminished flexibility, or reduced the amount of subsidy available to fill other pressing housing needs.

We commend the subcommittee for replacing the certificate and voucher programs with a single rental assistance program. However, we are deeply concerned about the subcommittee's decision to ignore the valuable contributions that project-based rental assistance has made. Project-based rental assistance, as well as public housing, provide more than affordable shelter. Properly utilized, they can be the catalyst for significant neighborhood revitalization.

A provision which would allow the transfer of existing subsidy, either partial or total, from an existing public housing development to a new development would facilitate the creation of mixed income communities. Vacant units in the existing development could be backfilled with working families not requiring a subsidy. This is similar to the MINCS model that was used successfully in Chicago. This approach would foster neighborhood revitalization and economic integration while minimizing the expenditure of additional Federal funds.

The National Leased Housing Association wholeheartedly supports the subcommittee's decision to eliminate Federal preferences in both the public housing and rental assistance program. The dramatic decline in working families in New York City public housing from half of all households in 1980 to approximately 30 percent today is directly attributable to the Federal preferences. This has led to a deterioration in community stability.

The elimination of the shopping incentive credit is another significant and welcomed policy shift. Many families that obtain this benefit do not shop at all, but apply their vouchers to their current apartments, which may be less expensive due to physical condition, location, or in some cases, rent-control laws. Furthermore, the shopping incentive has resulted in a program that provides disparate benefits to families in largely similar circumstances. Some pay less than 20 percent of their income for rent while others pay more than 50 percent.

We also commend the subcommittee for retaining essential elements of a successful rental assistance program, including rent reasonableness standards, housing quality standard, locally established payment standards, and flexibility for tenants paying an additional rent amount which—when they select units that exceed the payment standard.

We are concerned, however, that the bill does not provide for a cap on rent burden to ensure ultimate affordability. We suggest a 40 percent maximum burden.

We support the elimination of certain program rules that have hindered both program participation and administration, including the take-one, take-all provision, the endless lease, and the 90-day notice requirement to opt out of the program.

Section 302(c) provides for grants for housing assistance for one fiscal year. We are concerned about the change in the funding mechanism, and the duration of the period. We think it does rob the program of stability and makes for a great deal of unnecessary paperwork with renewals and also makes project-based assistance deals unbankable.

National Leased Housing supports section 321(a) which reinstates the eligibility threshold at the 80 percent of median level, and here I would respectfully disagree with Mr. Simons, that while I think that the section 8 program can, and in many cases is, targeted to people below 50 percent of median, I think that really should be a local choice and that could be accomplished through local preferences, but very often as you are trying to create certain developments, you want to have that flexibility to go up to 80 percent of median income.

We applaud the elimination of prospective portability billing. We do think that there should be a provision added to require housing authorities to phase out portability cases which already exist. In other words, if you stop today, that would be prospective cases, but there are thousands of cases in the country right now where there are billings going on. And what we suggest is that one half of each housing authority's incremental and turnover vouchers or certificates each fiscal year be utilized to absorb units that are currently in a billing situation.

We support the establishment of a minimum rent of \$50. We commend the subcommittee for the accreditation and oversight process and the establishing of the Housing Foundation and Accreditation Board, as specified in Title IV. I think some further clarification of the relative and respective roles of HUD versus that board would be required, however. It is imperative that local housing authorities be held accountable and so I certainly think that that is a critical element of the bill.

The bill would repeal the 1937 Housing Act. However, on a practical level this act still governs 4 million units. We do not see how it can be repealed concerning these projects as a legal matter. Further, there does not seem to be a specific provision providing that the government honor its commitments under its current ACCs for both section 8 and public housing and its housing assistance payments contracts with section 8.

Many of these contracts have over 20 years to run. We find nothing in the choice-based rental housing mechanism that provides specific funding for the honoring of these contracts. We are sure that it is not the intent of this legislation to provide a mechanism whereby contracts can be abrogated. We very much welcome the opportunity to work with your able staff to provide the technical language to prevent these unintended consequences.

In conclusion, Mr. Chairman, we wish to applaud your initiative in introducing H.R. 2406 and commend you and your staff for the many hours of work in putting together a very fine bill. It has many pluses and with the improvements suggested herein, it will prove to be housing legislation which we can all be proud of.

Thank you very much.

[The prepared statement of Mr. Graziano can be found on page 75 of the appendix.]

Chairman LAZIO. Thank you very much, Paul. We appreciate your thoughtful remarks.

Christina Garcia, good morning.

**STATEMENT OF CHRISTINA L. GARCIA, VICE PRESIDENT,
WILDWOOD MANAGEMENT GROUP ON BEHALF OF THE NATIONAL
APARTMENT ASSOCIATION AND THE NATIONAL
MULTI HOUSING COUNCIL**

Ms. GARCIA. Chairman Lazio and other members of the subcommittee, my name is Christina Garcia, and I commend you for calling this hearing to discuss Title III of H.R. 2406, regarding the tenant-based section 8 program. And I thank you for including me and my trade associations on this panel. Thank you.

I speak today from more than 17 years of personal experience in the property management business. As you heard, I am Vice President of Wildwood Management Group, Inc., a property management company that specializes in multifamily management throughout Texas. I am here today, however, on behalf of two principal trade organizations, the National Apartment Association and the National Multi Housing Council.

Chairman Lazio, we congratulate you and your staff on drafting an excellent bill. Title III of H.R. 2406 vastly improves the tenant-based section 8 program by placing it firmly in a private market setting and eliminating costly regulatory burdens on property owners.

Before I comment on H.R. 2406, I would like to add some background on the private apartment industry's views of the tenant-based program. Tenant-based assistance, in theory, can work, but the program does not live up to its potential because it has been amended to include a set of rules that are contrary to sound private market practices. HUD's studies from 1990 and 1994 show that 20 percent of voucher recipients failed to find a suitable apart-

ment. My own experience as a member of the Board of Commissioners for the San Antonio Housing Authority and with a private apartment locating firm that my company owns brings evidence of section 8 recipients pleading for extension of time for the third and fourth time by which they can use their voucher with an apartment they need. These failures, I would say, result in large part from the immensely burdensome regulatory requirements which cause some apartment owners to shy away from the program.

Well, that is the bad news. We have some good ones. The good news is that of all the aspects of HUD reform on the subcommittee's agenda, there is perhaps a greater degree of consensus on how to fix the tenant-based section 8 program than on any other topic. The private apartment industry, public housing authorities, congressional leaders, and on many points HUD, agree on changes that will improve the program.

I am submitting with my testimony today a letter signed in July by eight trade associations, several of which are here today, outlining an eight-point reform program for the tenant-based section 8 program.

Mr. Chairman, I am pleased to say that your bill includes nearly all of the recommendations from the eight-point coalition agenda. We commend you for fashioning a program that will work better for tenants and owners alike. At this juncture, let me just say that we believe it is critical to keep in mind that many of the proposed HUD reforms are premised on a highly functional section 8 program. As a result, if I could convey just one message to you today, it would be to urge you, Mr. Chairman, and your colleagues to enact the essential changes needed to make tenant-based assistance function more effectively this calendar year.

Now let me provide a little bit of detail on the two key disincentives in current law to owner participation, which you have already heard the endless lease and the take-one, take-all provision, both of which your bill eliminates.

The endless lease provision denies owners their usual option to opt out of the rental relationship with the tenant when the lease expires. Owners need this option to protect the value of their investment from tenants who cause losses, and, likewise, tenants need the option to opt out if the owner is providing an inferior product. While it was enacted with the admirable intent of protecting section 8 recipients, the endless lease has had an unintended and opposite effect. Many owners chose not to participate at all.

The take-one, take-all provision says that an owner who accepts one section 8 recipient must accept all who apply to any property in his or her ownership portfolio. In other words, once an owner has accepted a voucher holder, that owner is not permitted to make a business judgment to limit the number of section 8 recipients living in their properties. Again, the intention was to aid the section 8 recipients but the outcome was the opposite. Again, some owners chose not to participate at all.

Mr. Chairman, at this point, let me make a point of the utmost importance. Removing these two provisions in no way will deny section 8 recipients any of their rights and protections under the laws of this country. All tenants are protected under the fair housing law, the Americans With Disabilities Act, and other State and

local tenant rights statutes. These laws provide a complete set of protection.

Now, I would like to mention briefly a few other issues. First, we endorse your bill's elimination of the so-called "Federal preferences." Second, we applaud section 322 of your bill which gives section 8 recipients the option to pay more than 30 percent of their income for rent. Third, we support section 104 of your bill which allows local jurisdictions to set tenant rent contributions in a manner which rewards rather than penalizes recipients who increase their earned income. Fourth, we urge you to add provisions to your bill to end unnecessary monetary losses that owners experience as a result of section 8 rules. Fifth, we urge you to strike paragraph 4 of section 324 of your bill which gives Local Housing Management's agencies unlimited authority to add terms other than the standard market provisions to the lease. As drafted, section 324 contradicts the chairman's intention to make the program lease as similar as possible to a private market lease.

Finally, we endorse your proposals calling for certain responsibilities from renters, including minimum rent payments. Details of our recommendations on these points are included in our written testimony.

Mr. Lazio, thank you for the opportunity to appear before the subcommittee today and I would be pleased to answer any questions you may have.

[The prepared statement of Ms. Christina L. Garcia can be found on page 83 of the appendix.]

Chairman LAZIO. Thank you very, very much, Ms. Garcia. I appreciate your perspective and time you have taken for this analysis.

Ms. GARCIA. Thank you.

Chairman LAZIO. Now I want to recognize Charles Di Maggio. Good morning.

STATEMENT OF CHARLES DI MAGGIO, EXECUTIVE VICE PRESIDENT, GRENADIER REALTY CORPORATION ON BEHALF OF THE NATIONAL ASSISTED HOUSING MANAGEMENT ASSOCIATION, APARTMENT AND BUILDING OWNERS OF GREATER NEW YORK

Mr. DI MAGGIO. Good morning, Mr. Chairman, and thank you for inviting us here to Washington. My name is Charles Di Maggio and I am Executive Vice President of Grenadier Realty, which manages assisted housing in the New York City area.

Today, I am here representing the National Assisted Housing Management Association, the Associated Builders and Owners of Greater New York. These two organizations represent privately owned managed-assisted housing.

The ABO alone represents owners and managers of well over 300,000 units in the New York area. I would like to address specific things in your bill today and make a couple of points that have been brought up here by many of the panelists.

Of course, I would like to thank you for hosting the hearings. In the New York area, public housing has had a long tradition, assisted housing has a long tradition. You are going to hear from many public housing authorities and agencies throughout the proc-

ess. I am also here today to bring to you the view of what's somewhat not known is that private industry and private management is an important player in the assisted-housing field and has a long tradition also, and if I can also say what's terrific, we hear from members of the subcommittee and panelists, is something that seems to be lost in a lot of this discussion is that we believe as managers and owners that certainly in an area such as New York, that in general, public housing, privately assisted housing works in America and works in New York.

Certainly, there are things that need to be changed and adjusted. Certainly, your bill goes a long way to correct a lot of the difficulties we are all experiencing. But what we hope to remind subcommittee members and what we would like to get out also is that we believe there is a good news story about public housing; that both the private sector and government got into the industry of housing because for a long time the private sector, frankly, didn't provide proper housing in the private sector for low-income families and residents; that we are able to build section 8 housing and bring in new housing, replace substandard housing, to clear slums.

Mr. Simons, of course, reiterated the history of the housing program. And, again, like Mr. Simons, I believe the story about public housing and privately assisted housing is that it works. NAHMA is on record supporting many of the changes that your bill opposes and I would just ask, then, for time's sake we add my comments to the record and I will just try to skip over some of the comments that I know will be made by other panelists.

Chairman LAZIO. All the written testimony will be inserted into the record without objection.

Mr. DI MAGGIO. I thank you.

Our first point to be made is and, again, another thing that seems to be lost is that what pins housing together is frankly the steady revenue into its buildings. Project-based or tenant-based, what makes good privately assisted low-income housing, what makes good public housing is the ability of owners and managers to depend on a revenue stream.

Under title 3, specifically in sections 353 and 323, this establishes how the bill proposes HUD will establish payment standards. NAHMA and ABO are still unclear how this will differ with the current fair market rent system and, again, it is the steady revenue into properties, whether it is tenant-based or project-based, that allows us to manage particular properties. We are concerned with current fair market rent standards.

We are concerned with how they are judged in the New York area and how HUD develops the formula for where FMR's are set. As the chairman is well aware, HUD has proposed and now implemented change in the fair market standard that will lower fair market rents from the 45th to the 40th percentile. A change like this could have a detrimental effect on housing that has nothing to do with our ability to manage housing well or poorly. It has to do with the areas that we all operate in, in urban areas, high cost areas, areas that deal with professional and unionized labor, areas that deal with housing built to codes and standards that frankly our neighborhoods might not be built to.

I am concerned with the surveys, the pools of people and how our fair market rents are judged. In particular, in New York, we also can be judged on fair market rents that frankly are rent regulated and therefore are artificially depressed.

The second point we would like to make is we would like to know whether HUD can administer in a timely manner the rental indicators that are raised in the bill. We already know that there is a capacity issue with the agency now. The Secretary's intention is to publish rental indicators by market area in the *Federal Register*.

As the subcommittee is well aware, in the past this has not always been done on a timely basis. As the recent comments from HUD indicate, its ability to do so on a timely basis is certainly an issue given its current staffing capacity. We urge the subcommittee to take these concerns into consideration. Also section 323 of the legislation requires that each rental indicator shall be adjusted each year to reflect changes based on the most available data.

While NAHMA and ABO support the inclusion of the language in the bill that provides for an annual adjustment, we wonder how such a system, again, differs from the current methodology.

The third point we would like to bring out is in section 325(b) of the bill, this establishes general grounds for termination of tenancy. NAHMA and ABO strongly endorse the language of this section of the bill that establishes grounds for the termination of tenancy based upon activities that threaten health, safety or the peaceful enjoyment of the premises by tenants or employees—or of employees of the management of the housing.

Mr. Chairman, we particularly welcome your inclusion that employees, like tenants, may be victimized while working to maintain our tenants' homes, and on behalf of the assisted-housing industry, we would like to thank you for this recognition.

Fourth, on section 330 of the bill, it indicates that each local housing and management authority providing housing assistance shall establish and implement an administrative grievance procedure under which assisted families have an opportunity to dispute grievances concerning adverse housing management actions.

NAHMA has long been on record in opposition to the establishment of lease grievance procedures for assisted housing and we are concerned that the language of the bill may not clearly remove the owner and manager from this procedure. I also would like to comment that, again, our operators that operate in a rent-regulated environment, we would also like the subcommittee to look at the issues that we have in terms of the releasing tenants from their leases as evolved in New York City housing courts.

NAHMA has been on the record supporting project-based housing and I know, as Mr. Simons points out, I would like to steer away from that argument. Today, clearly we are here discussing tenant-based initiatives. It is underpinned by the belief that project-based housing is in trouble. We support project-based housing, believe it works well, particularly in the New York area.

We also believe that your bill here today goes a long way to making the tenant-based assistance program work more properly in an environment like New York. I would also like to finally point out that we also agree with your ability to release us from some of the

preferences that have long changed the character of housing in the New York area.

Again, as Mr. Simons pointed out, some of this housing was built for working class families with a tenant mix of different economic demographics that no longer exists in some of the housing that was constructed before. Thank you for your time and opportunity. I am, obviously, open to any questions you may have.

[The prepared statement of Mr. Charles Di Maggio can be found on page 105 of the appendix.]

Chairman LAZIO. Thank you very much, Mr. Di Maggio.

Our next witness is Mr. Charles S. Wilkins. Welcome, Mr. Wilkins. You are recognized.

STATEMENT OF CHARLES WILKINS, SENIOR VICE PRESIDENT OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Mr. WILKINS. Mr. Chairman, members of the subcommittee, thank you for inviting the National Housing Partnership to testify today on the reforms to tenant-based assistance contained in Title 3 of H.R. 2406. The National Housing Partnership is congressionally authorized to channel private investment into low and moderate income housing.

Our diverse national portfolio of over 120,000 units, which we own and manage, is equally divided between assisted housing and conventional market rate housing, so we feel we have a unique perspective on this issue.

I am Charles Wilkins, a senior Vice President at NHP; and I have spent my career on all aspects of managing and directing affordable housing of all types. The current programs are failing, and they are failing at an alarming rate.

According to HUD, one household in five is unable to find housing with its certificate or voucher and has to turn the certificate or voucher back in. Imagine the frustration of such a family after waiting perhaps years for assistance, searching for housing for 60 days or, as Christina Garcia has pointed out, longer and not being able to find housing. This really has to stop, and I applaud you and your staff for taking on this important task.

The program's success rate must be improved. NHP believes that this requires making tenant-based assistance as good as cash. This, in turn, requires treating assisted families the same as nonassisted families in the same building so that landlords will finally embrace the program fully and allow families to have a full range of choice and make the program work for everyone, including the taxpayer.

I am pleased that your proposed reforms address the key frustrations that private owners of public housing have with the current programs. First, the legislation removes the "take one, take all" provision; second, it removes the "endless lease" requirement; and, third, it utilizes a market standard lease. They are very worthwhile reforms.

I do suggest clarifications in three areas to make sure that the reforms have the results that you intend.

First, I believe it is important to minimize the changes that are made to the landlord's lease, and I would restrict them to two specific changes: first, to state the provisions of section 325 on

termination of tenancy and to state them without elaboration or interpretation.

The second suggestion I would make is to include additional provisions in the landlord's lease only if it is not a market standard lease, only the provisions needed to bring it up to market standards. The second area of clarification is to strengthen the assurance of payment.

As Charlie Di Maggio pointed out, the payment stream is vital in rental housing, and there are two ways that the current program fails: First, it is very important that the legislation clarify that the tenant must pay their share of the rent. If they don't, it is grounds for termination. The current program runs afoul of local laws where sometimes the assistance payment is considered a partial payment of rent, and it is essential that we prevent that result.

Second, the legislation must provide for a late payment charge if the housing assistance payment is made late or in the wrong amount or both. Late payment charges are a standard feature of all rental housing relationships.

The third area is to require timely decisions from the housing authority. Neither families nor housing owners are well-served when, as is currently the case, inspections and rent reasonableness determinations take sometimes weeks. This is time when the family cannot move in, the landlord cannot receive rent, and I believe the legislation should set prompt, strict timeframes for the housing authority to make these determinations.

In my written remarks I have specific suggested clarifications to the legislation to implement the changes I suggest and also some further suggestions to improve the performance of the program and Congress' ability to monitor that performance.

Thank you for the opportunity to share these remarks with you and other members of the subcommittee. I hope that these suggestions will help you to make tenant-based assistance much more useful for the millions of low-income Americans who depend on it.

[The prepared statement of Mr. Charles Wilkins can be found on page 108 of the appendix.]

Chairman LAZIO. Thank you very much, Mr. Wilkins.

The next witness is Judy England-Joseph. Good morning. Thank you again for all of your work with our subcommittee.

STATEMENT OF JUDY ENGLAND-JOSEPH, DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT ISSUES, RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION, GENERAL ACCOUNTING OFFICE

Ms. ENGLAND-JOSEPH. Thank you, Mr. Chairman. And thank you for the opportunity to be here today.

My statement summarizes much of the work that we have done over the past several years, both in reports and also on ongoing work that we believe address many of the important issues as you consider H.R. 2406.

Much of the discussion so far with the panel has focused on tenant-based assistance, and I would like to turn your attention briefly to public housing, since a large part of H.R. 2406 attempts to reform in a sweeping fashion public housing. At your request, we developed a videotape with an attempt to depict a wide diversity

of the Nation's public housing stock, and I would like to take a few minutes to show the video and to summarize my comments.

Chairman LAZIO. Without objection.

[Video shown.]

I want to thank GAO for the fine video presentation.

Ms. ENGLAND-JOSEPH. Sir, we felt it was important, and we agreed with your staff that, really, pictures tell much more than even a thousand words. I think, and much of the bill that you are considering today tries to recognize the diversity that exists in public housing, rather than to attempt to have a one-size-fits-all approach to that particular aspect of low-income housing.

But given the diversity of public housing, the inventory, the desire of both the Congress and the Administration to balance the budget within the next decade and the intention of this subcommittee to place greater reliance on public housing authorities for the management of their properties, public housing as we know it today will need to change. It will need to cost less and work better in the future.

We believe the following considerations will be critical to meet these desired needs. First, as we reported to you in June of this year, vouchering out may work but not necessarily across the board. The development-by-development reviews contemplated in your bill should provide more of the analysis needed to demonstrate at the project level where this approach makes the most sense and where it does not.

Second, in addition to the regulatory flexibility your bill seeks to give public housing authorities, they will also need a transition period to change their mix of tenants and lower their overall costs of operations in order to adjust to proposed reductions in Federal subsidies.

Third, HUD's limited oversight of troubled housing authorities has allowed some authorities to continue providing substandard service to their residents for years. H.R. 2406 provides a wider array of remedial measures HUD can or will be required to take against poorly performing housing authorities. We support these measures because, too often in the past, HUD has been reluctant to take action on its own; but we note that the resources available in HUD may not be enough.

Fourth, Mr. Chairman, you spoke at a recent conference of the need to think of public housing more as a part of the community than as an isolated entity. Earlier this year we reported on some of the challenges and long-standing obstacles that efforts to integrate public housing resources into those of the larger community will face. Indeed the long-term success of public housing may depend in part on the housing authority's ability to work with local governments and community organizations to better leverage the Federal resources available for community and economic development.

In conclusion, Mr. Chairman, this year could be a significant crossroads for public housing, one in which we believe analysis of the existing stock and flexibility in how we manage it in the future will be critical.

H.R. 2406 includes several reforms that will likely improve the long-term viability of public housing. Additionally, it provides posi-

tive reforms of tenant-based programs so that they are similar and consistent with the private sector in their treatment of renters.

Finally, Mr. Chairman, in contemplating these and other reforms to our Nation's housing policies it is important to recognize that the worst-case housing needs in our country are for the poorest of the poor, and public housing has come to serve that population. As we work to make public housing cost less and work better, meeting the needs of the very poor will become increasingly difficult, and their needs will still remain a very critical housing issue.

That concludes my remarks, and I would be happy to answer any questions that you or others might have.

[The prepared statement of Ms. Judy England-Joseph can be found on page 116 of the appendix.]

Chairman LAZIO. Thank you very much.

Our next witness is the Inspector General, Susan Gaffney.

STATEMENT OF SUSAN GAFFNEY, INSPECTOR GENERAL, HUD

Ms. GAFFNEY. Mr. Chairman, thank you very much.

As you well know, we support your bill. It meets many of the needs that we have identified over the years. And let me just summarize what our findings have been with respect to public housing over the last decade or so.

First of all, as many of the panelists here have said, most housing agencies function well.

Next, well-functioning housing agencies are generally hindered, not helped, by congressional and HUD micromanagement.

Third, HUD's oversight and monitoring of housing agencies are inadequate.

Four, abysmal conditions exist in a relatively few troubled housing agencies, and HUD is not moving aggressively enough to bring these agencies up to standards.

And I think, in broad terms, your bill addresses all of these situations.

I would like to just briefly point out four areas where I think we need to do a little more deliberation.

The first I think Ms. Garcia mentioned, and that is better defining the respective roles of the Housing Foundation and Accreditation Board as opposed to HUD. This is an innovative idea, this Accreditation Board. We like it. It seems attractive to us. What it does is it makes the evaluation of housing agencies independent. It gives them a more professional, credible standing so that, for once, we will not have the few bad ones ruining the reputation of all public housing. We would have accreditation which would give these agencies standing, and we are all for that. And we are all for an independent review, too.

The problem with the bill, as I see it, is that just because the Board now is set up to do this does not mean that HUD ceases doing it. You seem to have two systems working here, with the Board as well as HUD doing monitoring and performance ranking.

And I suggest to you a couple of things: That that kind of a system is going to result in confusion. It will probably mean that the Board is going to be nothing more than an extra layer of bureaucracy. It probably will mean that HUD will continue doing business as usual. That is, instead of shifting its focus mainly to deal with

troubled public housing it will continue to hang on to the monitoring and oversight role.

And I think that dual process is also going to mean that accreditation will mean nothing because it will be largely irrelevant to what happens to housing agencies because the separate system that the Secretary uses will end up governing.

So what I would like to propose to you, and I know it is pretty radical: I think we should consider putting the Board solely in charge of monitoring housing agencies and ranking their performance. I think we need to get HUD out of that business. I think we need to make HUD focus on policy and problem-solving. Now, there are some problems with that approach.

Accreditation happens not that frequently, but you have also provided for financial and performance audits. You could have exception audit reporting coming into the Board that would force more frequent accreditation reviews, and I urge you very strongly to do that.

The second issue about the roles of the Accreditation Board and HUD is you have some ancillary functions attached to the Board, such as measuring the performance and efficiencies of HUD's deep subsidy programs and providing technical training and systems to housing agencies. I really think you should have the Board focus squarely on accreditation, keep it clean and straight. These other duties are really much more in HUD's bailiwick. I think you can make this accreditation process extremely important to this whole industry, but we need to do it with great care.

A second issue that I would like to talk about has to do with something that you said in your opening remarks. You, of course, said it better than I will, but you said that we are no longer going to tolerate these terrible conditions in troubled public housing. We are going to force action.

What we have repeatedly said to you over the years is that one of the reasons for lack of HUD action is a lack of political will. And that does not mean necessarily that HUD is weak. It means the political issues on a local level surrounding HUD intervention in troubled public housing are huge. And HUD's ability to stand up to those political pressures is not that great.

As we read your bill, it seems to me that you have a fair number of phrases like "the Secretary shall seek to," and "the Secretary may at his discretion," and I would simply urge you to review all of those discretionary terms to see whether, in light of the political pressures that we know are going to be there, whether this is really going to be powerful enough to ensure that action is taken.

Another example: You have a provision which somewhat astounds me, and that is if, during the first 12-month period a troubled public housing agency doesn't meet its commitments to improve, then the Secretary may withhold CDBG funding. Now, that is an enormously powerful tool. It is something our office has recommended for some time. But that is another huge political issue—one that is, I think, bigger than HUD intervention; and I just ask you to consider whether there are any prospects at all, as long as that is a discretionary tool, whether it will ever be used.

We have two other issues I would just like to briefly mention. We have the same concern that a lot of these panelists have about

going from an average of 17 percent of median income now to allowing housing agencies full latitude to go to 80 percent. This, it seems to me, is just a huge jump. We believe in deregulating and decontrolling housing agencies, but I think this is a matter of national policy. I don't think it is micromanagement to say how do we want to target housing assistance and to what incomes?

And I think that same kind of thinking applies to questions like how tenant rents generally are going to be set and how income exclusions are going to be established. I am not asking for micromanagement. I am just urging you to consider whether there are not real national policy goals inherent in those kinds of issues.

The last thing I would like to talk to you about with regard to the bill is crime, violent crime. I do not understand why, but we tend not to talk about violent crime when we talk about public housing, when in fact we know that public housing is a major locus of violent crime in this country.

I applaud you. You have done so much in this bill to equip housing agencies to combat violent crime. You have strengthened resident screening, resident eviction. You have better enabled housing agencies to deal with the dysfunctions caused by mixed populations. You have provided for witness relocation.

But it occurred to me when I was reading the bill that you haven't recognized up front that there is a violent crime problem and that the long-term solution to this problem is not these specific changes. They are all needed. But the long-term answer is that there has to be collaboration and cooperation, real teamwork between housing authorities and local law enforcement, and that does not exist in many places in this country.

So I would suggest to you there are some things that we could do easily to send a strong message that we do not want to tolerate violent crime and we will require that kind of collaboration and cooperation. They are simple things such as requiring in your communities improvement plans, that housing agencies give you their plans for addressing violent crime and that those plans be developed in conjunction with local law enforcement. Or, in the local cooperation agreements, we can require the same kind of thing—explicit reference to local law enforcement and how crime is being addressed. And, finally, you could single out security and law enforcement as eligible cost items under the block grants.

These are all just suggestions. You have done a magnificent job. I applaud you, and we are certainly willing to do whatever we can to help. Thank you.

[The prepared statement of Ms. Susan Gaffney can be found on page 137 of the appendix.]

Chairman LAZIO. Thank you very much.

I would like to thank all of the witnesses and panelists. There are just a few questions that I have.

One of the efforts here is to get private owners more involved in, especially, the portable tenant-based section 8 program by having them become more receptive and, therefore, broadening the access. In your opinion, does this bill do that? Are there other things that we need to do to broaden access to make sure that people who have vouchers have something that is meaningful, that they are truly

portable and that they are received by a broader amount of owner-developers? Mr. Wilkins.

Mr. WILKINS. I could speak to that for a moment. Yes, I believe your bill accomplishes that and particularly with the clarifications that I suggest. It would open all of our properties to tenant-based assistance, and many of our properties do not now take it.

Ms. GARCIA. I would have to echo the same and just urge you one other time that these go a long way in, I think, encouraging private market owners to participate in the program.

But I would like to urge you to also look at perhaps including language that would enable housing authorities to make their rent payments timely to owners and not delay the move-in for a tenant in a unit which affects the tenant and also the owner from collecting rent during that time period.

Items such as those, I think, would—while you have gone over 100 percent to improve the program already with your proposed changes, I think would really open things like that up.

Mr. DI MAGGIO. Of course, the importance of timely payment is what mostly concerns an owner. But as per my previous comments, the private owner in New York faces a difficulty because of our archaic housing court system. And regardless of the size of the owner, in our area you have to address issues about what happens in the worst-case scenario and what happens when things go wrong. Can I get the tenant removed? Particularly in our smaller properties.

Chairman LAZIO. Mr. Graziano and Mr. Simons, I want to talk about income mix. How important is that? New York City seems to have done a relatively admirable job in terms of retaining income mix, although there has likely been some erosion over the year in your income mix.

Perhaps you could speak to that and whether this bill meets the objectives of trying to go back, as Mr. Simons was talking about, to the years of Taft, the conservative Republican from Ohio, and Bob Wagner, the liberal Democrat from New York, getting together and teaming up to provide housing both in the private sector and public sector in mixed incomes.

Mr. SIMONS. In my experience as an owner and developer of property myself, the goal of mixed income is extremely important. If you look at the history of Federal housing programs, the initial programs developed by HUD—and I am talking about what we called the below market income program and the 236 program—were shallow subsidy programs.

Therefore, like the BMIR program, eligibility went to 95 percent of median income; and in the 236 program, eligibility went to 80 percent of median income. Rent supplement was added to these which was for those people who were very poor and could not afford the floor rents and would pay like section 8. Those projects for the most part, no matter what people will tell you, were successful except when it came to costs running away due to the energy crunch in the 1970's.

Anybody who has dealt with housing to any great extent will tell you that there has to be some sort of an income mix, and we are not talking about someone at 250 percent of median income living with someone at 30 percent. The income mix that is most effective deals with 100 percent of median income and down or 80 percent

and down. People at 60 percent are usually working people. People on subsidy and on government support which are below the 50 percent median income level only have the increase in whatever the government support is going to be. The opportunity for greater earnings power is not there.

The mixture of these two classes has proved very beneficial, and I think the Senate is looking at this in that way right now, and I would urge that this be given serious consideration to encourage the public housing authorities to become not only the managers of what they have but also the developers of a lot of other housing within their areas where they can do mixed income and can change their tenancy.

Chairman LAZIO. As a follow-up question, is it realistic to presume that only by achieving more mixed income will we have the incentives for both public housing and assisted housing to develop more units than we have?

Mr. SIMONS. Unfortunately, the law of economics doesn't apply to housing. That is why we have housing programs. Need and the affordability to fill that need is not the same as the cost of the product. And the private sector, which does a wonderful job, can only get down so far in fulfilling that need. The government has to step in and take care of the rest of that need.

I think it is recognized, even with the debate over the policy—whether we are going to income transfer or supply side subsidy—we realize that there is a need for government at certain levels of income. We have invested in project-based subsidy, section 8, public housing. All of those programs are project based at a time when this country felt the important thing was the production of housing. I refer you to the 1968 Housing Act and the goal of building 20 million units in the next 10 years with 4 million of them subsidized. That is in the 1968 Housing Act passed by this Congress.

Now, maybe we don't need that kind of production now, and I don't want to get into that debate. But what you have got there is a huge Federal investment that is serving people—well you don't want to lose that now.

And that gets us back to the project based and how to save those jobs which are beginning to suffer. Public housing is suffering now because of what has happened. Section 8 is beginning to suffer the same way because of the constraint on the tenant beneficiary. And I think that is where it has to be done. You have to give them an opportunity to come back to where they originally were designed to be.

As far as the very low-income people, with all due respects to Mr. Di Maggio, I think that the 50—Mr. Graziano, excuse me—the 50 percent limit for existing section 8s or the voucher program should be maintained—those programs deal with those people that are going to be displaced and are going to not be given the opportunity to benefit from project-based subsidy. And it is those people that need the dispersal to create the mixed income housing.

Mr. GRAZIANO. First of all, on that last point, I really don't disagree. What I said was that it would be a local option in terms of the targeting. And, in fact, in New York, we would likely utilize the section 8 for people below 50 percent. But there are other members of our organization who would choose to do something different,

and we are saying it should be a local option as to how you would target.

I would say that income mixing is critical and that income mixing has been the key determinant of the success of public housing in New York City over the years.

What I mentioned in my testimony, both oral and written, is that in a decade the number of working families has declined from about half of all families in public housing in New York City to 30 percent, as a consequence of the Federal preference rule. And the fact that you have eliminated the Federal preference rule is the single most important thing in turning that around.

And I would also like to say I mentioned in my testimony the idea of portability of subsidy, and by that I don't mean the traditional portable certificate. I mean in terms of being able to move public housing subsidy dollars out of one particular development to another location.

Again, I mentioned similar to but probably without the strings of the MINCS program where you could take some of the subsidy out of the public housing development, backfill those vacant units with market rate working families, probably blue collar. We are talking about up to a certain limit, maybe 100 percent of median, and then you could take the dollars that were shifted out and do other developments that would also be mixed income and that would foster neighborhood revitalization.

I have heard you speak in other places, and I have read your speeches, and you talk about how we need to look at something more broad than the provision of housing, to the creation of viable communities. This is a way that housing could be used as a tool for neighborhood revitalization and at the same time getting the economic integration that I think is essential.

And I would say that I am not sure what your intent is in the bill. Because I noticed in the laundry list of provisions that are repealed by this bill MINCS is mentioned. I am not saying MINCS is perfect, but something like that, where you could shift the subsidies out would be helpful and gets at your stated objective of community revitalization while essentially recycling Federal dollars, not adding additional dollars.

Chairman LAZIO. I appreciate that comment. I think this is one of the directions where we need to focus on the sense of recycling what will be increasingly limited dollars.

The last question to Ms. England-Joseph, with respect to the June, 1995, report relative to vouchersing out, the relative costs and your criticism of the one-size-fits-all concept throughout the Nation. Could you speak to that and give us a sense of what the magnitude of the costs might be for the taxpayers on a vouchersing-out model to the best of your ability? I know it is a broad question.

Ms. ENGLAND-JOSEPH. I can describe what we learned and what our report illustrated in terms of the examples that we identified, trying to show what would happen in case examples if we were to voucher out public housing. We looked at not just what the costs would be for upgrading or rehabilitating the existing property, but also the market rent in that neighborhood and the rent necessary in order to cash flow that property once it had been rehabilitated.

We tried to understand the public housing property as well as the environment or the community and the competition within that community. And what we found was that the one-size-fits-all idea really would not work well in those cases where the cost of the public housing is low in comparison to the market rate rents within that community. The government would, in fact, find itself in a situation where, by allowing people to take their tenant-based assistance and rent higher rented properties, be paying more money for that additional flexibility and that ability to use a tenant-based subsidy and at the same time not benefitting from the huge investment that had already been made over the last many years in public housing.

The condition of public housing property, makes a big difference. If it is distressed, it is in very, very poor condition, we are going to have to spend a lot of money to rehabilitate it. Unless the market rate there clearly is so much higher than what it would cost you to rehabilitate that property, it makes sense to voucher out.

Chairman LAZIO. In a city like New York, for example, is it possible that you would give us some sense of what the costs of vouchering out in New York City would be?

Ms. ENGLAND-JOSEPH. I can't give you a number—a total dollar amount. That is the difficulty in trying to do anything with the housing that we are talking about.

But in New York—in New York City, clearly, the rents, the market rents, are much, much higher than the cost of the Federal Government operating public housing. And when that public housing is in good condition already, you are able to rent to low-income people at a much lower rate than what you would if you chose to close off that public housing and asked those tenants to move.

Chairman LAZIO. If there is no mortgage on the public housing development, and it is in good condition, depending on the project, it will be less costly to retain a good project as opposed to vouchering out?

Ms. ENGLAND-JOSEPH. Right.

Chairman LAZIO. And the taxpayers would foot the bill for that.

Ms. ENGLAND-JOSEPH. The key to your legislation in my opinion is that you call for a project-by-project or development-by-development analysis that most public housing is already to have developed. I don't think it is a burden. There may be more information surrounding that market.

But it is critical to know, on a case-by-case situation, whether it makes sense to voucher out or whether it makes sense to maintain that stock—because it is good solid stock and it provides low-income housing at a very cheap price.

Chairman LAZIO. That is with no hostility to vouchering systems, because they are appropriate tools in many cases also and ought to be available.

Ms. ENGLAND-JOSEPH. Definitely.

Chairman LAZIO. Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman.

I think this relates somewhat to the comments on page 3 of Mr. Graziano's statement where he speaks specifically to—Mr. Graziano, in your statement where you talk about limitations in terms of the section 8 program has been designed to provide eligi-

ble families—however, in New York 10 percent of the families pay more than 50 percent of their income for rent, and some families pay more than 70 percent, and, obviously, you suggest a 40 percent maximum burden. I think this underlines the importance of not having inflexible national policy with regards to this issue, does it not?

Mr. GRAZIANO. I am sorry. I didn't understand the question at the end of that.

Mr. VENTO. In other words, the vouchering-out mandates here would not work in New York, is what I think Ms. England-Joseph was saying from GAO, too.

Mr. GRAZIANO. I think without some cap on the burden, the maximum rent burden, you are going to have people in serious financial situations who are ostensibly assisted. One of the Federal preferences was for people paying more than 50 percent of their income in rent burden, but if you have people who are already on an assisted housing program who are paying more than that, then, clearly, that is kind of absurd.

I would say, generally, in New York City, the fundamental question as it relates to vouchering out, is where are people going to go? There is not a heck of a lot of empty housing in the city that is an alternative. And I would also say that in many, many neighborhoods the public housing is the best housing in the neighborhood and is the anchor of that neighborhood.

So, I think that it is not realistic to think that the private market is going to supplant public housing in New York City in that regard.

Mr. VENTO. Mr. Wilkins, in your testimony you point out that one in five vouchers are handed back because they can't find housing. The problem here, of course, with the solution that you offer Mr. Graziano is it doesn't fit the confines of what is the budget or the appropriate dollars.

So, obviously, if we go in that direction, we then don't have the solution at hand in terms of meeting the numbers. The real question is if you can drive, for instance, the 1.4 million units and make it fit. You have these numbers at the top. Rather than the policy driving the numbers, the numbers are driving the policy, and this doesn't fit.

Mr. GRAZIANO. I think one of the things that needs to be done—and it is more than implied in this bill; it is called for in this bill—is a development-by-development assessment and introducing the concept of asset management, that is certainly prevalent in the private market, into the public housing program.

There are, in fact, winners and losers. There are some developments that for a variety of reasons are drains on a local housing authority's pocket. And even in an operation like the New York City Housing Authority, which I think is well run, we have some developments that are troubled.

And I can give you one example, without naming it, of a development in one of our boroughs where we expend about 40 percent of our maintenance staff dollars on about 4 percent of the units. I mean, it is a development comprising 4 percent of the units and utilizing 40 percent of our maintenance dollars in that district. That would be a prime candidate for looking at asset management.

Mr. VENTO. I think there are some other downsides to it in terms of who would voucher out and who would leave or stay. You would end up with vacant units in those areas; and, of course, that creates other types of difficulties in terms of the issue, does it not?

Mr. GRAZIANO. That is one of the things we would struggle with if we were compelled to look at asset management, which I think is a good idea conceptually, but you have to look at consequences of disposition of a property, what would be the impact on the neighborhood.

Mr. VENTO. It is an evolutionary process. This measure obviously tries to address that; but, as I say, the money is driving the policy here as opposed to—but at least it makes a bow to that.

One of the issues brought up by the Inspector General was the Certification Board. Do you have any views on that Mr. Graziano, briefly? About HUD's ability to, in fact, certify PHAs?

Mr. GRAZIANO. I, in fact, stated in my testimony that I lauded the creation of the accreditation process and the Board, but I was concerned about the lack of clarity in the bill about the relative and respective roles of HUD versus the Board.

Mr. VENTO. If I can just interrupt you, and maybe expressing the question, the concern is here that—I mean, with all deference to Ms. Gaffney—that somehow people are involved in politics, and HUD cannot do this, and somehow if you have this Board it would be free from politics. This sounds like something out of a civics book, with a little pepper added, to me.

I don't necessarily think it is the case. If that were the case, then you would have this uniform problem all over; but, obviously, you don't have this uniform problem. You have difficulties here and there. Just turning this around this way, is this going to do it? What is going to happen? I mean, I have to go by what is in this legislation, not by reading between the lines here.

Mr. GRAZIANO. I think that it is very conceivable that an independent Accreditation Board could properly assess the performance of individual housing authorities. I think that is very doable. The question would be on the follow-up. What would be the remedies and who could enforce them.

Mr. VENTO. So what—HUD could do that, too. Is HUD not doing that today?

Mr. GRAZIANO. HUD is not doing that except through the PHMAP process, and there really isn't a lot of follow-up. The question is not the ratings system—are you performing properly or are you performing poorly. It is, what is the remedy? What is one to do about it?

Mr. VENTO. You are asking my question better than me. That is my concern. Just having this doesn't do it unless you have got remedies.

Mr. GRAZIANO. Right. And I would agree with the Inspector General. The remedies should be more in the way of mandatory and less in the way of discretionary.

Mr. VENTO. You think if you gave that Board the authority to cut out CDBG money that would be effective or they could say we are going to give you back to HUD to run you? What is new about that? I thought that is what we are doing in Chicago right now.

Is that some sort of new remedy? What is the basis of having this other group up there? What good are they going to do?

Mr. SIMONS has been smiling. I want you to talk, Mr. Simons.

Mr. SIMONS. In my prepared statement, I questioned whether this is another interstitial layer of government.

Mr. VENTO. We need more political subdivision, I guess.

Mr. SIMONS. Public housing—you cannot remove the politics from public housing, and one of the problems is that when it was originally created everybody tried to remove the politics from it. Public housing authorities are independent agencies. I don't know how, legally, you can cut. You have community development funds passing through a city that had nothing to do with its public housing. That is the problem.

When we dealt with the issue, we tried to bring the local governments, the mayors, the local elected officials more into context with the public housing authorities, make it a political risk of theirs as well as the Federal Government. And the way we had to try and do it was with a carrot, by offering more money to the public housing authorities for modernization if the mayors did participate.

I don't know about the Accreditation Board. I just think it is unnecessary if HUD can do the job.

Mr. VENTO. Mr. Lazio has returned, and I was asking questions about the Accreditation Board. And I think there are some synergies. I don't know what we have to do in HUD in terms of circuit breakers, if there has been—I think, obviously, there are some practical issues in terms of what you are going to do with Chicago or St. Paul or Minneapolis. There are some practical problems here, I agree. But how do you hold it accountable if they are over here for long terms? I don't know.

Mr. Di Maggio, did you have a comment on this issue? What is your view with regards to the Accreditation Board? Do you think this is what is necessary and this is the ticket?

Mr. DI MAGGIO. I can't speak directly on his review of public housing agencies. I can speak to HUD's review of our private assisted contracts. And my comment there is whether you can actually take the politics out of the review. Sometimes the inability of HUD to get to a reasonable basis and their review doesn't take into account the project experience—I don't believe you can take the politics out.

Mr. VENTO. I don't always look at politics as a dirty word. I am not talking about special influence that is keeping open units that shouldn't be kept open. The question is, I don't think you can take it out of any group.

Ms. Gaffney, you went on at length on this particular group, expressing an interest. Do you have some model, some place that this exists in some other capacity with HUD or some other agency where we have such a Board that you wanted to illustrate? Because you obviously think that it is absolutely essential.

Ms. GAFFNEY. Oh, no.

Mr. VENTO. That HUD couldn't do this. That there are no synergies within HUD.

Ms. GAFFNEY. I have perhaps miscommunicated what my concern was. This was not our idea. We don't have a lot of experience in accreditation boards. I can understand conceptually that it

is attractive because it is independent. It would give status, professionalism.

My real concern, though, is that, as the bill is structured, there seems to be a duplication of function, that HUD will be doing this function and the Board will be doing this function. And the real point of my comment is not that we have to have a Board but that we shouldn't have two different entities doing the same function.

Mr. VENTO. Your real testimony is that you think we ought to have the Accreditation Board and take the function away from HUD and the Accreditation Board could take over the housing agencies, isn't that correct?

Ms. GAFFNEY. You are right. HUD can do this, but HUD hasn't done it adequately.

Mr. VENTO. Compared to what? What is the basis that they haven't done it? There are reasons. Is it money? Is it funding?

Ms. GAFFNEY. Let me go back to the other question that you just asked me. The division that we would be proposing is that HUD be responsible for policy and HUD be responsible for problem-solving. That the Board would be nothing—

Mr. VENTO. I thought that HUD was supposed to administer the laws that we passed. I thought that is what they did.

Ms. GAFFNEY. That is what I meant as policy.

Mr. VENTO. You didn't say that.

Ms. GAFFNEY. Sorry.

Chairman LAZIO. Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

As the vice chairman of the subcommittee, let me welcome you and thank you for taking time to prepare it. I apologize for having to leave for part of it for a weekly radio press conference I do.

Chairman Lazio and I represent about as different districts as you can imagine in many ways and including in the area of subsidized housing. He comes from a part of the largest metropolitan area of the country. I represent a third of a very sparsely populated State. Our housing authorities are in small communities and small housing authorities in terms of units. Most of them have senior citizens housing as the dominant role. They are very safe. They are sanitary. They will be usable housing units well after 40 years has expired. They are working very well.

The State, in many parts of the country, through housing agencies, takes a major role in assisting. Chairman Lazio and staff are to be commended for developing a very innovative approach for reforming our subsidized housing assistance programs, but I am not interested in damaging what is working well. And this is a very diverse country with very diverse public housing authority competence.

Ms. England-Joseph, you mentioned the need, as I understood it, to look community by community and project by project at the cost of vouchersing out; and I think that is very appropriate. In some cases, vouchersing out will mean being much more responsive; and, in some cases, it is clearly the answer.

I noticed, Mr. Graziano, in your testimony you have some concern, I think even in a legal sense, about the repeal of the Housing Act of 1937; and I must say I do not understand that. If you can provide additional information, I don't think there should be any

problem in simply wiping the Housing Act of 1937 off the books and replacing it with better legislation. In fact, symbolically, I would like to eliminate the Housing Act of 1937.

Mr. GRAZIANO. I would ask to call our counsel, Charles Edson, to answer that technical question, if possible.

Mr. BEREUTER. It is a generally framed technical question, but if he would care to I would be happy to hear from him. We are not going to leave a void. We are going to replace it with something if we eliminate the provisions.

Mr. EDSON. I believe it is a drafting matter, and we have volunteered to provide some technical help. As reading it now, I do not see where the funding exists to honor present contracts, which is very disturbing. Also, as a sentimentalist and someone concerned with housing history, I might share that I think it is a shame to repeal a law that has meant so much good to so many; and I think there is some reverse symbolism of repealing the name, the United States Housing Act of 1937. But that is certainly a policy decision.

Mr. BEREUTER. Well, there are some very wonderful results of the Housing Act of 1937, but the public perception of public housing is one I would like to change. And if it takes a very fundamental change, even symbolically eliminating the Housing Act of 1937 with something that works better, I would like to do that. And I say that in contrast of preserving what is working well. But we would appreciate your suggestions about what might be problematic in the draft legislation.

I would like to ask Mr. Simons the first of two very basic questions. And to you, Mr. Simons, the question is: Do you believe that there would be more participation in the provision of low-rent housing by the private sector if we implemented the proposed changes in H.R. 2406?

Mr. SIMONS. It is very difficult to say, Mr. Bereuter. If you go back and look at the history of the participation of the private sector in assisted housing in this country, you will find that they have really come to the fore where there has been Federal housing programs.

They have rushed in, they filled it because it was a type of program that was used throughout the country, a basic type of program that could be used throughout the country and they learned how to do it. Today and for the last 15 years, we have been more or less moving the housing delivery system down to the local level.

At the local level, there is no specific program. They are individual local programs, usually a combination of one, two, or three funding sources, which it is almost brain damage to put some of those deals together but that is what is happening. That has led to a greater participation by the nonprofit community because they are down there, locally based. And I think the challenge is not whether the private sector is going to participate more, the challenge is trying to bring together a group at the local level to get a uniform, understandable set of programs that everybody can participate in.

As far as to the changes to the voucher, I think that will go a long way toward encouraging the private sector to do more as far as renting to people who have vouchers. I think that is key and es-

sential as the housing policy of this country goes forward. So in that sector, there is no question there will be greater participation.

Mr. BEREUTER. Thank you.

I have time perhaps for only one more question, but I would ask this very basic question to the entire panel. Will reforms in the tenant-based section 8 program contained in this draft legislation expand the number of affordable units in the marketplace? I would like to have any of you who care to make an estimate of that answer.

Mr. Wilkins.

Mr. WILKINS. In my view, it will expand the number of units that will participate in the tenant-based assistance program. I don't know that the changes in it in themselves will stimulate production of affordable housing.

Mr. BEREUTER. So participation rates will climb.

Mr. WILKINS. The participation rate will go up. The families will have an easier time using their certificates.

Mr. BEREUTER. Anybody else want to—

Mr. SIMONS. I would say the same thing with one caveat, Mr. Bereuter, and that is what happens with the rent level, what rent level is set will have a lot to do with the ability to participate. So if the cost, as Mr. Vento is pointing out, may be driving these programs in the opposite direction of where everybody wants it to go.

Mr. BEREUTER. If you can hold that, hold that fast, compensate for that, then is the answer the same?

Mr. SIMONS. It will be a great boon.

Mr. BEREUTER. Substantial, you are saying?

Mr. SIMONS. I think it will be substantial.

Mr. BEREUTER. Anybody else care to respond?

Thank you very much.

Thank you, Mr. Chairman.

Chairman LAZIO. I thank the gentleman.

Congresswoman Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Chairman, as the representative of one of the highest concentrations of public housing in the Nation, it really troubles me that one important element in this discussion has been left out of the process and that is tenants. We need to have input from tenants. And I will implore you to hold a hearing where we will have some tenants to come and to share with us their concern and their views.

I suspect that if we talk with them, you will hear of their fears that without the proper assistance and transition programs, many of them will end up on the street. What are we going to tell a parent from Williamsburg, the Brooklyn area of my district, who takes the time off work, pays a babysitter, shells out subway fare only to be turned down by a landlord in Queens because the landlord is afraid that the voucher won't be any good or that individuals from government-assisted housing will reduce the value of that facility?

These are the realities of the problems out there and these are the problems we must deal with before moving forward with this bill. Our goal has to be to provide safe, affordable housing. If we

heard from tenants, they will tell us that it takes more than just policy to do that. It takes a commitment to provide money.

And I would like to ask my first question to Mr. Paul Graziano.

Under a voucher program, what type of assistance or transition services would you be offering to individuals who participate in the program?

Mr. GRAZIANO. That is a tough question. I am not really sure because I am not sure what the specifics of the program would be. For instance, I don't know whether it would be an across-the-board vouchering out, or as this bill I think calls for, a project-by-project assessment of that and then vouchering out in that development. If it were—

Ms. VELAZQUEZ. Do you feel that should be addressed before we move forward with this program?

Mr. GRAZIANO. Well, if it were an across-the-board vouchering out, first of all, I would totally oppose it, and in New York City it would create horrendous problems administratively. I don't know how we would ever handle it. Just the sheer logistics of getting the information out to 180,000 households would be mindboggling. And then to explain to them what the options were and then to actually give them some real counseling as to how they might proceed in an era when our budgets are being cut, we would have to dramatically increase our staff to provide that kind of assistance, which I think certainly is deserved.

I mean, you can't just let people go off without an understanding of what their options are. So I think an across-the-board vouchering out like that would be wrong and it would be administratively impossible to deal with in a city like New York.

If you were talking about individual developments, I would say in New York, that if you did that assessment development by development, in the vast majority of cases, it would be found that the public housing development was more cost-effective and providing a better product than the housing options that would surround it, and so that I doubt that many would fail the test. For those that did, I think you would have to have a very careful process, one that involved the residents in an ongoing dialogue about how you would deal with that particular property.

There may be a whole range of options, and I would be very concerned about just abandoning a development and the impact that that would have on the neighborhood and the residents. So I think it would be labor intensive, but at least it would be focused on an individual development.

Ms. VELAZQUEZ. Mr. Graziano again.

Discrimination, both racial and economic, is a problem when individuals in public housing go into the housing market. It seems to me that a voucher system will worsen this problem. What needs to be done to deal with this?

Mr. GRAZIANO. Well, first of all, again, I will repeat, I do not favor the vouchering out as a general policy in New York City—and I think that we need to hear from the residents. You know, in New York, we have heard from the residents in at least this particular case.

What we have is a moving-to-opportunity demonstration program in New York City which has so far been focused in Harlem, and

we have spoken to several thousand, I think about 4,000 families, offering them the opportunity to take a section 8 certificate. These are families who are currently living in public housing. And we offered that opportunity to take a certificate and move somewhere else as part of this HUD demonstration program, and the last I heard, it was a couple of handfuls of people who had opted out in that fashion.

The bottom line was people recognize they had roots in their community. They recognized that the product that we were providing was viable, and they recognized that the options were limited and I am sure they anticipated discrimination in that private market. So I think that our residents, at least in that sample population, have clearly stated what their interests are, which is to stay in public housing.

Ms. VELAZQUEZ. Ms. Gaffney, you spoke before about drug abuse and crime in the public housing project. What are your views regarding the elimination, the fact that in the House bill, the drug elimination program was not funded?

Ms. GAFFNEY. We have, in looking at the drug elimination program, had some problems with it. One of the problems is that funding goes to housing authorities, and although there is a requirement that the local law enforcement sign off on the grant application, what is happening in many places is they are simply getting a rubber stamp from law enforcement.

What we need is real collaboration between the housing authorities and the local police. They need to be working together to solve this problem and in many places they are working at odds. The police see housing authorities as a universe unto themselves and the housing authorities sometimes see themselves as the public safety experts. That is a dysfunctional situation.

Ms. VELAZQUEZ. Thank you very much, Mr. Chairman.

Chairman LAZIO. Thank you.

The Chair feels compelled to mention that in the last three hearings we have had, we have had tenants at each of the hearings. Two were invited, and one testified in Chicago. Bertha Gilkey, who represented a broad coalition of tenant groups testified at an earlier hearing. We have been trying to solicit the—

Ms. VELAZQUEZ. Well, in Chicago, it is really difficult for me to go there.

Chairman LAZIO. I understand that.

Ms. VELAZQUEZ. New York City has one of the largest housing, public housing in the Nation. I just think that either we have one in New York City or to bring tenants from New York City here in subcommittee and participate.

Chairman LAZIO. I just wanted to note that we have had tenants before us.

Ms. VELAZQUEZ. Not enough, Mr. Chairman.

Chairman LAZIO. Mr. Frank.

Mr. FRANK. Thank you.

I am glad that you mentioned Bertha Gilkey because I was particularly impressed with her strong support for the Brooke amendment and her opposition to its total repeal. And I am glad that you acknowledge that she represented a broad coalition of tenants.

I think having the Brooke amendment be a minimum is a mistake from the standpoint that the Indian housing groups raised, but I intend to follow through on Ms. Gilkey's representation and her opposition to a total repeal of the Brooke amendment.

Chairman LAZIO. Will the gentleman yield?

Mr. FRANK. Yes.

Chairman LAZIO. This is not a complete repeal in the sense that there is a effort to have the cost comparable to what the costs are to maintain the unit as opposed to just market rate costs.

Mr. FRANK. As I understand the Brooke amendment, it is not just in the section 8 part, but the public housing part. I had understood the legislation that you had put forward, as did Bertha Gilkey, to repeal the Brooke amendment and to say there was no limitation.

Chairman LAZIO. There is. There are two limitations. One is going to be the market rate of the unit, which—

Mr. FRANK. In public housing what is the market rate of the unit?

I am talking about public housing, that is what Bertha Gilkey was talking about in part. I mean, I confess that I don't understand what you just said about the assisted part.

But with regard to public housing, as I understand the bill you brought forward, it repeals the Brooke amendment. You mentioned Bertha Gilkey as a representative of tenants groups, and I just was saying I agree with her, we should not be totally repealing any upper limit on the Brooke amendment in public housing. I mean, is there not a repeal of the Brooke amendment in the public housing part?

Chairman LAZIO. If the gentleman would yield again. For purposes of assisted housing, what I was mentioning was that there are two—right now—

Mr. FRANK. I didn't mean assisted housing.

Chairman LAZIO. I understand that.

Mr. FRANK. You mentioned Bertha Gilkey.

Chairman LAZIO. That is what I was speaking to. And yes, there is. There was an effort to let locals set their own limits.

Mr. FRANK. Right. So just to get back to where we were, you invoke Bertha Gilkey, and I want to say that it was impressive to me that she spoke for—against the repeal of the Brooke amendment, and I am glad you acknowledge she is broadly representative of tenant opinion on this.

Chairman LAZIO. In favor of the bill.

Mr. FRANK. Yes. The key question the gentleman might recognize is not whether you pass a bill or not a bill, but the specifics. And the fact is that I think the Brooke amendment is a major part of it.

Now, I would also like to refer and ask people on the panel one question. In the chairman's statement at the bottom of page 1 of his statement, he says with the exception of the elderly, disabled and others with special needs, H.R. 2406 makes housing assistance transitional, not in the punitive sense, but by combining opportunities with responsibilities, and so forth.

I would ask you, I see in the Boston area, for instance, which I am most familiar with, I would think in New York and a lot of

other major metropolitan areas, are there people who you think are going to be in need of housing assistance beyond the transitional period, whatever that is, who are not necessarily elderly or disabled or having special needs?

Let me begin with Mr. Graziano, can we make housing assistance for people outside those categories transitional?

Mr. GRAZIANO. Well, I think in New York City, there has been a tradition of public housing being the residence of people of mixed income. There are many, many working families in public housing who are very proud to say they live in public housing and it is not deemed by them to be a transitional resource, and frankly, given the high cost of housing in New York City, I think that there would be people who are working and are very productive and models, actually, but probably would never be able to afford the private market. So I am not sure—

Mr. FRANK. So if it was transitional, at some point they would be in need and the need wouldn't be met?

Mr. GRAZIANO. Right. I think that is true.

Mr. FRANK. Mr. Simons, you think we can make this transitional for families?

Mr. SIMONS. I think the chairman, when he spoke about transitional, is referring to the traditional role of public housing, where it had been transitional housing that you went into public housing and then you were working, you were able to afford more and eventually left public housing, which was the early history of it. Today—

Mr. FRANK. Well, is this bill a return to the thrilling days of yesterday? Is that what this is?

Mr. SIMONS. I think part of it is an attempt to do that, and I have no problem with that.

Mr. FRANK. Do you think it will work economically? I am skeptical that it works economically in many metropolitan areas where people who are not special needs and not elderly will not need housing assistance after a while.

Mr. SIMONS. I don't believe that we can arbitrarily create transitional dates for people to leave. This is not welfare. I think it would be wrong to do that. What I said, and I am sorry you missed the comments, was that I felt by raising the income limits of the beneficiary groups by raising floor rents, you are changing back the tenancy of public housing.

Mr. FRANK. Excuse me, I have limited time. That is a different question.

Mr. SIMONS. Well, it is a different question.

Mr. FRANK. Excuse me, it is a different question because whether or not we have mixed income, I am all for that. But that does not mean that it is not—there aren't going to be—that doesn't deal with the question about whether there are people who are not elderly and disabled who are going to need housing beyond the transitional period.

Mr. SIMONS. Also, I have said earlier we have the need. The need will always be there for certain people to have subsidized housing.

Mr. FRANK. Well, that was the question and I appreciate that.

Any other members of the panel wish to comment on that?

Is it realistic to think that housing assistance can be transitional for everybody outside the elderly and disabled category?

Mr. WILKINS. I have limited experience with this, but I would speak in favor of raising income limits up to 80 percent.

Mr. FRANK. No, excuse me. Excuse me. No, I am sorry sir. I have limited time. I know my diction isn't the best and sometimes I am not clear, but raising income limits to 80 percent is different than whether or not there is going to be a need for housing assistance that is not transitional, and I don't mean to object to your dealing with that, if somebody else asks you that. But there are people, it seems to me, frankly, who even if you go up to 80 percent of the median, in some cases, they may still need assistance, and there may be people less than that.

So I don't understand that that is a response to the question about whether or not there are going to be substantial numbers of people who will need housing assistance that is not transitional. What about people who are at 60 percent of the median?

Mr. WILKINS. It assists people in making transition in that it allows them to stay with subsidy until they get to a level——

Mr. FRANK. I appreciate that.

Are there people who will need housing assistance? This statement says if you are not elderly, you are not disabled, you don't have special needs, housing assistance will only be transitional. And I am asking whether you think there will be people outside those categories who will need housing assistance other than on a transitional basis?

Mr. WILKINS. I don't believe I am qualified to answer that.

Mr. FRANK. OK. Then if you are not, fine. This isn't a test. No problem.

Sir? Would you have an answer to that?

Mr. DI MAGGIO. I agree that it would be hard to set an arbitrary date for transition. I believe the bill goes forward to help, again as Mr. Simons' commented, I think the goal of returning the housing stock back to——

Mr. FRANK. I don't understand why we have such difficulty. I mean, if you don't want to answer the question, fine. It really is a specific question about whether or not there are going to be people who are not elderly and not disabled and not have special needs who are going to need housing indefinitely, assistance or—and who won't make the transition.

Mr. DI MAGGIO. Definitely, I hope not.

Mr. FRANK. You think that everybody who is—the great majority of people outside these categories will at some point not need housing assistance after a while?

Mr. DI MAGGIO. I believe that to be the goal of the bill.

Mr. FRANK. No, no, I—the question, are these the goals of the bill, and the question, is this the reality? A different question? I mean, honest answers don't kill people. You can give an honest answer. It may be a little bit—the chairman may not like the honest answer. He is a nice person. He won't stop speaking to you; won't not invite you back again just because you give an answer he doesn't like. You don't have to not answer the question.

Let me go on with another question because I don't want to get you all in trouble with the chairman, which you seem to be worried about.

What about one last question, if I could have an extra couple of minutes to make up for our colloquy.

Chairman LAZIO. Without objection.

Mr. FRANK. Thank you.

There is reference in here to how nonprofit—somebody had a statement about how the nonprofit groups—oh, the chairman says it gives greater power to nonprofits and others whose skill at management is far greater than the Federal Government's. I have to say that it has not been my experience that the management skills of the nonprofits are clearly better. I notice we don't seem to have too many nonprofits here today.

But let me ask people, Ms. Gaffney, has it been the experience of the IG that the nonprofits are more skillful in their management than HUD?

Ms. GAFFNEY. Well, I think you understand that we have found problems with nonprofits. I think the difference to me is that the nonprofits are out there actually managing housing. HUD staff here, that is not really our job, to manage housing hands on. We do policy, rulemaking.

Mr. FRANK. Do you believe the skills of the nonprofits are greater than the Federal Government's in management?

Ms. GAFFNEY. In terms of hands-on management, yes, of course, because that is what they do and that is not what we do.

Mr. FRANK. So you would have more devolution of power from the Federal Government to the nonprofits?

Ms. GAFFNEY. Generally, yes.

Mr. FRANK. Are there cases where you have found that the Federal Government was delinquent because it did not sufficiently supervise nonprofits and deferred to them too much?

Ms. GAFFNEY. Yes.

Mr. FRANK. That has been my impression. I have to say I think this blanket statement about the nonprofits, frankly, is a mistake. I also have to say and I will close with this, I am very skeptical of the fact that many of my Republican colleagues love nonprofits in the housing area when they don't have a lot of confidence in them anywhere else.

Over at the Government Operations Committee, they are getting investigated. I don't remember that the Defense Department does a lot of business with the nonprofits. We don't have them doing a lot of nuclear testing. They don't do a lot of financial management for the Treasury.

We have a political party that celebrates the profit motive, and I think with good reason. I think the profit motive is a great engine for productivity. But when it comes to housing, all of a sudden they are very skeptical of profits. They don't want anybody to make any money or they are skeptical of it, and they love the nonprofits.

And I would be more impressed if some of my Republican friends were all enthusiastic about the nonprofits in the areas that they cared about, rather than the areas where they are simply trying to cut the money. So I think nonprofits are very important, but I am

skeptical at this celebration of nonprofits in housing only and not anywhere else.

I am finished, Mr. Chairman.

Chairman LAZIO. I thank the gentleman.

Mr. Kennedy.

Mr. KENNEDY. Thank you very much, Mr. Chairman.

I just want to make a brief comment. While I appreciate the fact that we are finally getting moving on getting a housing bill, and I appreciate your willingness to get a bill marked up, I just want to point out, as I am sure you are aware, that some of the issues that you touched upon in this bill were included in the bill that we marked up last year, including ceiling rents, making certain that people who earn more money could continue to stay in the housing, getting rid of one-for-one and trying to do some reforms of a system that for far too long has not enabled many of the public housing authorities to deal with a lot of the problems that they face.

But I would like to just point out that we are doing this in the context of having an unbelievable set of cuts that this subcommittee wasn't even consulted about. And as a result of those cuts, public housing agencies are now put in a position of having to determine how they are going to be able to make ends meet.

And so if we are going to be cutting back their Federal subsidies, then of course the only way they can accomplish keeping themselves afloat is by raising the level of rent and by raising the level of income of the people that they serve. It is the only way to make the thing work.

So what we are doing here is debating over an issue that doesn't deal with the heart of the matter, which is how we are going to provide the poorest people in this country with affordable, decent, quality housing? What we are talking about is how to make an adjustment for housing authorities to be able to serve more upper-income people and to do that while making a little bit more money because the Federal Government is pulling away its subsidy levels.

So you can formulate that six ways to Sunday, but when all is said and done, what we are doing is we are pulling away from our commitment to housing the most vulnerable people in this country, and as a result of that, we are going to be creating more homelessness amongst the very, very vulnerable citizens of America.

At the same time we are pulling away from public housing, we are also pulling away from assisted housing. At the same time we are pulling away from assisted housing, we are pulling away from the funding programs that go toward the heart of the homeless programs in this country by over \$576 million.

The truth is that we are taking a walk on the most vulnerable citizens in this country. I don't blame the housing directors for coming in here and trying to come up with ways that are going to enable them to deal with a changed world where their Federal subsidies have been cut dramatically. But let's not mistake what is actually happening.

What is happening is without a single hearing, this country this year cut \$6 billion out of our Nation's commitment to affordable housing and that is what we are dealing with. Then we are asking these guys to get folks to come out forward and tell us how they

are going to make it, and everybody is now saying, oh, well, we got a bill here that allows us to support it.

Well, it allows you to support this legislation because we are pulling away from the commitment to taking care of the poor. So, of course, you—I mean, I understand where you are coming from and I get the fact that you have got to do this. But we ought not to just sweep the problem under the table and pretend that we are not absolutely screwing somebody today, because that is what's going on. And so let's not make any bones about it and let's not pretend that as everybody fawns over this bill that there isn't somebody that is getting hurt and hurt badly, and that is the poorest and most vulnerable people in this country.

You want to deal with bad public housing authorities, we ought to give the Federal Government, we ought to give Secretary Cisneros, who just came in, the ability of taking over those authorities and doing it with the kind of vigor that he has shown in recent months in terms of taking over some of the worst public—run public housing authorities, and we ought to have the ability of going in and shutting down bad housing projects within well-run housing authorities.

And now he has some capability. If he needs further capabilities, I am all in favor of getting it to him. But the truth of the matter is, we ought not to sweep it under the rug, which is why I would just reiterate some of the concerns.

Now Rick, I understand that you have had a couple of tenant witnesses, but there are a whole range of organizations that in fact try very hard to speak on behalf of low-income tenants, and whether it is the Housing Law Project, or the Low-Income Housing Coalition, the Center for Community Change, there are a number of organizations that spend their time trying to look out for the interests of very low-income people and very vulnerable citizens. And I would hope that before we go to a markup, we could find some way of trying to at least have them come on in and share with us some of their concerns about this bill, please. OK?

Chairman LAZIO. We have been having an ongoing dialogue with some of the very same groups that you are talking about.

Mr. KENNEDY. You might have been having ongoing dialogue, I haven't seen them before a witness table. So you know, we still have some rights in the minority, and it would be best if everybody remembered what it was like in the minority, because who knows how long everybody is going to stay in the positions they are in.

So all I am trying to suggest to you is that we could all find a better way, we could all find a way of trying to work together and at least having an open hearing process. I mean, you have got the votes to run this bill through. We didn't even have a vote on the \$6 billion in cuts that took place.

All I am trying to suggest to you is that you go ahead and have a hearing where you at least hear from the people that are going to get hammered by the legislation that is coming out.

Chairman LAZIO. Would the gentleman yield?

Mr. KENNEDY. Sure.

Chairman LAZIO. I don't think I have heard any testimony that indicates that the tenants are going to be hammered by this legislation. I recognize you are concerned, as I was, about the reduc-

tions in spending. But putting things in perspective, I think you are referring primarily to the rescission bill. This is a bill that was signed by the President. Putting it in context, we spent about \$165 million in 6(a)(2). We are spending about \$20 billion more than that in outlays in this next year. So we are talking about a sizable amount of money.

Yes, there has been a reduction and that is compounded by our mark-to-market problem for which we have to give these people the ability to manage what is a difficult situation.

Mr. KENNEDY. Can I reclaim my time, please, Mr. Chairman?

Chairman LAZIO. Yes. I recognize you for another minute.

Mr. KENNEDY. Thank you. I appreciate that, Mr. Chairman.

Look, you know, first and foremost, it is not just a rescissions problem. The rescissions problem is triggered by the insistence upon—by the Republican Congress, never having held a hearing, to go and cut \$6 billion out of the housing budget for this year and for next year without holding a hearing and having nothing to do with the rescissions package.

Mr. FRANK. Will the gentleman yield?

Mr. KENNEDY. Sure.

Mr. FRANK. I agree with you.

Mr. KENNEDY. Thank you.

Second, I mean, if you want to talk about the problems associated with the general issue of the fact that the housing costs in the country are rising and that there are going to be some bills coming due, that is fine. We ought to have those debates. And we ought to figure out what we want to have as a housing policy, but we never had a debate. And all I am trying to suggest is that we allow some people to come forward who don't have an ax to grind by virtue of the fact that if they don't get the money from you and you don't even have—you by your own admission said you weren't in favor of the bill that we passed on the House floor that dealt with housing cuts.

So what you are saying is you are opposed to the housing cuts. You don't have anybody here that is going to come forward and talk about the fact that as a result of those cuts, poor people are going to get hammered. And so what I am trying to suggest to you is that let's be open and honest about who is winning and who is losing.

These folks have got to raise their floor in order to be able to make the money to keep themselves afloat. It has nothing to do with the fact that you are not hearing from the people that are actually getting hurt by what has taken place, and that is what I am asking you to hold a hearing on.

Chairman LAZIO. I understand. Unfortunately, we don't have jurisdiction in terms of appropriations in this subcommittee. That is not the function of this subcommittee, as you know.

Mr. KENNEDY. I didn't understand. What did you say?

Chairman LAZIO. I said, we do not have jurisdiction over appropriations on this panel.

Mr. KENNEDY. Rick, may I just argue with you about that for a second?

Mr. LAZIO. May I finish my thought first?

Mr. KENNEDY. Sure.

Chairman LAZIO. I have no idea what party affiliation, for example, the panel is before us. I know Mr. Simons served under President Carter. I know Ms. Gaffney was appointed by President Clinton, but beyond that, I have no idea.

This is not a Republican-stacked panel, nor have the other two panels been stacked. And what I have said is we are not excluding tenants. Three tenants have been invited to the last two hearings. We will continue to have a dialogue with tenants.

I would be happy to speak to you after this and try to work some type of arrangement out. I don't want to be boxed into which group is going to be invited and what we are going to do. Let me just say that we will try and work together.

Mr. KENNEDY. Let's just recognize that you said something that I think is the most critical thing that has been said in this that I heard. I haven't been here that long, which I heard, which is that we don't have ability to deal with and to control the Appropriations Committee.

Chairman LAZIO. We do not have jurisdiction over it.

Mr. KENNEDY. The truth of the matter is that we ought to. And that is the way the rules of the Congress are designed, and what is going on here is there has been an abandonment of responsibility by the authorizing committees over the appropriations. That is the fundamental problem, is that you guys are walking in lockstep where Newt Gingrich wants to take you, and when you disagree with the policy, you are not willing to come forward.

You have got more votes on this subcommittee than the appropriators' have. And if we had the guts to really take them on, we would fight them and we would win, because we have more votes than they do, and that is the way it works. That is the way it used to work around here is we would get in and tangle with them.

I have tangled with them with Barney in terms of policies that we created here in the past and they try to go off and do their own thing, and we have at it, and we win some of those.

Chairman LAZIO. I remind the gentleman I brought an amendment to the floor which was successful, that the gentleman supported, which restored some money. I have been involved in that. Unfortunately, the rules do not allow us, contrary to the gentleman's assertion, to—

Mr. FRANK. Will the gentleman yield?

Chairman LAZIO. Have jurisdiction over appropriations.

Mr. FRANK. Will the gentleman yield?

Chairman LAZIO. Yes.

Mr. FRANK. The rules allow you to vote against that terrible reconciliation bill if you muster the courage.

Chairman LAZIO. I want to thank the panel for their testimony and for the time that they put into preparing the written testimony and the analysis. I look forward to an ongoing dialogue.

We are going to recess for 5 minutes to allow the Secretary to come up.

[Recess.]

Chairman LAZIO. The subcommittee will come to order.

The second panel is comprised of the distinguished Secretary of Housing and Urban Development, Henry Cisneros.

I want to welcome the Secretary back to the subcommittee and thank him for his testimony. I also want to acknowledge the very fine story written about him in the recent *Washington Post* magazine section acknowledging his efforts to try and change the status quo, an uphill battle, as we are all learning.

Mr. Secretary, I also wanted to acknowledge the two very fine members of the Administration you have with you. I want to introduce them and thank you again for your attendance here.

STATEMENT OF HON. HENRY G. CISNEROS, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ACCOMPANIED BY BRUCE KATZ, SENIOR ADVISOR TO THE SECRETARY AND KEVIN MARCHMAN, ACTING ASSISTANT SECRETARY DESIGNEE FOR PUBLIC AND INDIAN HOUSING, HUD

Secretary CISNEROS. Thank you, Mr. Chairman.

I would like to introduce Bruce Katz, who is the Chief of Staff of the Department. Many of you know him. He has been involved intimately in housing matters in the Congress for the last half decade.

And it is especially fitting that I would have present here today Kevin Marchman who is the designee to be the Assistant Secretary. As you know, Joe Shuldiner has chosen to become the Executive Director of the Chicago Housing Authority. He became so immersed in the work out there, as you saw, that he decided to make a personal commitment to Chicago, and he has gone out to become the executive director of the housing authority.

Chairman LAZIO. He is so well-trained in thankless jobs, I suppose.

Secretary CISNEROS. He did New York, Los Angeles and now he wanted to go for the trifecta of the third largest city in the country, and so he is in Chicago.

Thank you for your comments about the article. That really was an article about all of our work over the course of the last year trying to make some new inroads in housing policy, and I appreciate your role as well as those of the Members of the subcommittee.

I want to go directly to the legislation. I originally had testimony that spoke at length about the problems in public housing and spoke about our reinvention efforts. I want to go right to the legislation. I want to say a little bit about some of the things it accomplishes and describe a series of points with which we have some concerns.

In terms of some of the positive aspects of the legislation for which you and your staff should be commended, it adopts program consolidation and merges tenant-based vouchers and certificates, something we have been trying to do. It eliminates the one-for-one replacement rule, which is well known as a major impediment to replacement of public housing in the big cities.

It encourages an integration of incomes, which all the experts say is the number one most important thing we should seek to do in development. It streamlines the modernization programs so that we can use modernization funds as they need to be used, including for replacement.

It provides the Department with enhanced powers when assuming control of troubled public housing agencies, something we don't

have the capacity to do on a large scale, but when we have to do it because we face a meltdown situation, like we did in Chicago, the powers that this bill would give us are important. And it continues the deregulatory track pursued by the Department over the course of the last several years.

I think there is a danger that there are elements of the legislation that swing the pendulum too far toward unfettered control by local bureaucracies concerning issues like income-targeting, preference rules, rent restrictions and away from what we think are prudent national standards.

I would like to proceed to discuss a series of fundamental public policy issues which I hope that we can resolve together. And from the work relationship that we have developed over the last year, you and I personally, Members of the subcommittee as well as our respective staffs, I know that we can make headway on some of these things, and I bring these to you as public policy concerns.

The first point of contention concerns the bill's proposed funding level for public housing. The subcommittee would authorize \$5.5 billion for a consolidated public housing program. This represents a 31 percent cut from last year's pre-rescissions appropriations, and a \$1.5 billion reduction from the post-rescission appropriations. It is below the funding levels assumed in the Congressional Budget Resolution and the Senate appropriations bill.

The impact of these proposed funding reductions are easy to predict. Preventative and routine maintenance will be curtailed. Security and social services will have to be cut back, and anti-crime initiatives eliminated. The inevitable deterioration of developments will not only negatively impact public housing residents but surrounding neighborhoods and prevent PHA's from attracting higher-income residents to public housing because they will have to get on the rent side what they are—what they lose on the appropriations side.

In addition, these funding reductions, when combined with the proposed sunset of the low-income housing tax credit, which is a terrible thing happening in the reconciliation process, the cessation of incremental rental assistance and a 30- to 40-percent cut in homeless assistance will exacerbate the Nation's affordable housing problems.

It doesn't have to be this way. The funding decisions represent choices made by this subcommittee and other committees have a disproportionate share of the deficit reduction burden borne by public housing.

The second point of contention is over the bill's relaxation of current income targeting rules. Our policies have sought to promote economic integration.

We should encourage the mix of incomes and give dependent families role models, families that are working every day. Nevertheless, we think the bill tips the balance too far. The bill would allow all public housing units to be filled by households earning up to 80 percent of the area's median income. By contrast, 85 percent of current public housing residents have incomes below 35 percent of the area median. That is too low.

We think the bill goes too far. It would couple a dramatic relaxation in current income targeting rules with a repeal of all Federal

preferences for admission. I fear that these proposed changes will, over time, alter the fundamental mission of public housing, to serve poor and low-income Americans unable to find decent and safe shelter in the private housing market.

We need to be clear what 80 percent of median income means. In St. Louis, 80 percent of area median income for a family of four is \$35,700; that is 236 percent above the poverty line. In Baltimore, 80 percent of area median income is \$39,500; that is 261 percent above the poverty line. Think what these income targets would do in tight housing markets where public housing has relatively high market value, places like Cambridge, Massachusetts and New York City.

I ask that the subcommittee reconsider its income-targeting provisions and work to find an acceptable middle ground. I would offer two suggestions.

First is the Senate Public Housing Reform bill requires that 40 percent of all public housing units be filled by households earning less than 30 percent of the area median income. So instead of everyone being able to go up to 80, it sets a percentage that could be below 30. We think that goes in the right direction.

I would go further and use the low-income housing tax credit definition, the targeting definition of 60 percent of area median as the upper limit, instead of 80 percent. We want an income mix but we are fearful that the combination of factors allowing these relaxations, mixed with removal of the preference rules and then financial pressures on the housing authorities on the other side will drive them toward the upper end. People at lower incomes will be lost and we will have lost income mix in a different direction.

The third major point of contention is over the termination of meaningful rent protections. The subcommittee would repeal the Brooke amendment in public housing and give public housing agencies the discretion to set rents between a minimum of \$50 a month and a ceiling rent based on market value or operating costs. The subcommittee's actions will lead to rent increases for the most vulnerable households with the lowest incomes, particularly those living in low-wage and low-benefit States.

The median income for public housing residents today is about \$6,300. A minimum rent of \$50 would increase the rents paid by approximately 132,000 public households by an average of \$346 a year.

When I visit with mothers, single heads of households in public housing in places like Chicago and they describe to me their income and—and the difficulties they are having getting the basics, I mean, shoes for children, for example. Then we are going to impose something like \$350 a year in additional rent increases, frankly, they don't know, and I don't have any idea where the money is going to come from for them to pay for this increase.

When you combine the fact that whatever Federal cuts are occurring are being matched by State cuts, in States like Illinois and Michigan, New York, Pennsylvania, and others, the combination of the cuts on people of meager income gets to be a very serious problem. To raise rents in any amount is something that has to be carefully considered.

But it is highly unlikely, given the reduction in operating subsidies and the repeal of the Brooke amendment, that local agencies will raise rents more substantially for a large number of households. It is highly likely, I should say, given the reductions in operating subsidies, repeal of Brooke, that local agencies will raise rents more substantially for a large number of households.

Increasing rents will compound the severe reductions in EITC, AFDC, medicaid and food stamps which serve many of the same families. There are many families in public housing now who are barely juggling the costs of basic necessities. How they will cope given increases in rent is difficult to contemplate.

I think a more judicious approach is contained in the Senate appropriations bill. Retain Brooke, set a minimum rent of up to \$25, permit public housing agencies to set ceiling rents and disregard earned income from families who make the transition to work. We therefore remove the disincentive to work, reward work, make work pay. The Senate appropriations bill correctly focuses on the need to mix incomes and raise revenues without unduly harming the most vulnerable and elderly families. And I strongly would commend the Senate approach to your consideration.

The fourth major point of contention is over the extent to which public housing agencies will continue to be accountable to residents, taxpayers and the public trust. The quid pro quo of giving local entities greater flexibility and latitude in the operation of federally funding programs must be an insistence on accountability. The subcommittee would establish a new accreditation board to establish performance benchmarks and perform oversight and auditing functions.

I think the concept as we have discussed of an accreditation board is not a bad idea to instill greater professionalism in the public housing industry to perform certain oversight functions. It could be helpful. Such a board would bring individuals with real-life management skills and expertise, provide a level of practicality that was all too often missing from some of HUD's bureaucratic oversight in the past.

But an accreditation board also raises some important questions: Ensuring performance accountability among Federal grantees involves a spectrum of activities, technical assistance and support, establishment of performance measures, oversight of performance, enforcement. We think some of those functions can be carried out by an accreditation board, but others of them are linked more to the capacities of an agency such as HUD.

I was told, for example, a few days ago, that a member of your staff when questioned on what kind of staffing would the accreditation board need, said that they thought it could be done for 350 people. Well, that is a very substantial new bureaucracy that is either created anew or carved out of the existing HUD.

If it is carved out of HUD, then it takes away from the capacity to do some of the enforcement and the other functions. It assumes that all of the problems have been rooted at HUD, and I know some of the industry thinks that way, all of the problems are HUD-related and HUD-created. But the truth of the matter is that the public housing industry has not been exactly what you would call a paragon of smoothly functioning management and efficiency.

And so my admonition would be let's not create impossible ambiguity that makes it harder for HUD to act, to step in when conditions warrant. I happen to be a Democratic appointee but in due course at some point there will be a Republican Secretary of HUD, and I don't think you want to so neuter the Secretary's discretion or the Department's capability by turning so much over to the industry in some ambiguous way that it is impossible to step in and correct problems where they do exist, as we have tried to do in Chicago.

We have been criticized for Chicago, but today I think, Congressman, most folks in Chicago would believe we clearly did the right thing and we are making an improvement. I want to make sure the Department has the capacity when conditions warrant to do that.

So the questions are: What is the composition of the board? What are the key interests to be represented? In what balance? What should the entities' relationship be to HUD?

Will HUD retain an independent enforcement power that protects residents when the Secretary sees fit? Will HUD retain the ultimate right to improve—to approve performance standards?

To whom is the accreditation board accountable? Is it a sort of freely spinning body out there that takes on a life of its own and frequently creates serious personality, political and judgmental differences with what the Department is trying to do, taking control of money that the Department has an accountability for and is accountable to the Congress and to the Administration?

What is the entity's scope? Is it wise to cover all the deep subsidy housing programs as the bill now proposes?

Clearly, there are many questions which need to be explored. And as I said earlier, I know that we have the kind of working relationship that will allow us to address these questions.

To me, one of the most important issues that will—must be discussed in the context of the board, and this subject is training for housing authority staffs. Frankly, there is a thinness of capacity, and housing authority executive directors and top officials, and we think it would be important to expand the quality of training, and that means some resources for broad-based training across the country.

The fifth major point of contention is over the treatment of the most troubled public housing stock. There are projects in which people are trapped. They are the most dangerous, they are the most costly.

I believe the bill is far too cautious about dealing with this portion of the public housing inventory. The bill essentially gives public house agencies complete discretion as to when they will switch over to certificates. It is not clear that such discretion should be vested solely in the hands of the agencies that themselves frequently are responsible in a managerial way for creating the problems.

They would like to palm them off on someone else, including an easy target, which is HUD. But they cannot escape the management insufficiencies, the problems that the housing authorities themselves as a massive bureaucracy have.

So absent greater incentives or pressures, these agencies are unlikely to convert to certificates because that is a tough thing to do

or because local political pressures will prevail or because the housing authority doesn't want to be subjected to the competitiveness of the marketplace. So we think there needs to be some HUD say in the conversion of these capital monies to certificates to assure that the interests of the residents are addressed.

The final point of contention, and I will close with this last point, concerns the bill's treatment of section 8 rental assistance. The bill contains several positive proposals for revising section 8, including the merger of separate voucher and certificate programs, the elimination of rules such as the notorious take-one, take-all provision.

I want to commend you for acting to remove take-one, take-all and other such things. But the bill makes a number of reforms to section 8 that I think could be ill-advised. As with public housing, the bill would set the income eligibility for section 8 at 80 percent of area median and repeal Federal preference and tenant rent protections.

The bill—this is a very important point, would inhibit portability. These changes are simply not justified given the history of section 8. In most communities, the section 8 tenant-based program achieves income integration because it allows people to move to mixed-income areas and neighborhoods.

I fear that these changes could result in converting a housing program that is carefully targeted on serving low-income families with the worst housing needs into one that serves moderate-income families with minimal housing needs.

There are obviously many other issues of importance that we will want to discuss, but in the interest of your time, recognizing you have Members who have other schedules, I will stop and just say to you that we have tried to set forward the most serious of our public policy concerns with the bill.

I look forward to meeting with you personally or with members of your staff in the weeks ahead.

[The prepared statement of Hon. Henry G. Cisneros can be found on page 143 of the appendix.]

Chairman LAZIO. Thank you, Mr. Secretary.

I just want to make one point and then I will turn to Congressman Kennedy.

The statement concerning the size of the staff that would be needed for an accreditation board was a comparison with what is now being used for hospital accreditations, which monitor 14,000 units and 5,200 hospitals every 3 years, so a significantly larger universe. So we were using it for a frame of comparison. No additional bureaucracy is intended or will be funded as a result of this.

Secretary CISNEROS. Congressman, the issue remains that the 300 employees, whatever that number is, 100, you have to have some staffing. You can't ask a volunteer board to come in and review public housing authorities. Even 95 or 100 or 200 housing authorities—that were on the bubble between troubled and not—has to have some staffing, that is clear.

Chairman LAZIO. Yes.

Secretary CISNEROS. Both for analysis and some logistical support, and so forth; that if that comes from HUD, then it just raises questions of where does their authority end and where does HUD's begin, and those are all difficult.

Chairman LAZIO. Maybe I'll come back to that. I want to yield to my friend from Massachusetts in the spirit of bipartisanship because I know he has to leave.

Mr. KENNEDY. Thank you very much, Mr. Chairman.

I do appreciate both you and the Secretary's understanding about the fact I have got to catch a 1:00 o'clock flight.

But I wanted to, instead of getting, talking about many of the specifics that you outline in your testimony, which I must say, Mr. Secretary, I think I agree with almost everything you said, I want to talk about the general impact of what is going to take place in terms of the housing cuts.

As I understand in public housing alone, we are talking about a \$3 billion cut. I think the operating subsidies are going to be dramatically cut back. I think modernization is all but eliminated.

New development, I think, is zeroed out. I think you got a—the HOPE VI money which you have done so many innovative and creative things with in some of the worst housing projects in the country is, I believe, zeroed out as well.

Secretary CISNEROS. On the House side. The Senate puts in \$500 million.

Mr. KENNEDY. Puts in \$500 million.

You mentioned briefly in your testimony the impact of cuts in the Earned Income Tax Credit, food stamps, welfare, the things—I can't believe we are going to—we are about to eliminate. I just had a brief conversation with the chairman about the elimination of the Low-Income Housing Tax Credit, which is one of the silliest things I have heard.

I think the general concern is while we seem to be in a head-long rush to cut every program that affects the poor, we are also expecting an improvement in the overall capability of HUD to run its programs, particularly in public housing.

And I wonder whether or not you might just take a minute to talk in a way that isn't so confusing to people that might be watching this on television or looking at the general thrust of your statements, which HUD is so filled with a myriad of different programs.

If you start talking about every one these programs, most people can't keep up unless they follow this stuff every day. The real impact of these cuts, however, I think is going to be toward the abandonment, really, of a lot of very poor people and, in fact, we are even going to be cutting the homeless budget at the same time.

And I wonder if you can just talk for a little bit about where you see these housing policies leading us in terms of the impact of these cuts and the changes that you are going to have to try to implement in order to keep up with them.

Secretary CISNEROS. Congressman, I will not talk about programs, but I will try to paint a picture for you of what we think we are dealing with.

Our homeless programs, for example, are going to be cut to the level of about half of last year. We know that there are some 600,000 people on the streets at any given moment. We know that the fastest growing section of the homeless population is women with children. We know that we are seeing a very treatment-resistant homeless population of people with dual diagnoses; they have mental illness and an addiction or mental illness and another

kind of illness. Some very increasingly tough problems on the streets. Our homeless money will go down.

We have 4 years of waiting lists in almost every major city in America for section 8. This will be the first year in the history of the section 8 program (founded by President Ford and sort of the conservative orthodoxy of how you do housing policy, certificates and vouchers that people can use in the open marketplace), there will be zero new incremental vouchers to be used to bring down those waiting lists.

At the same time, we are seeing reductions in public housing funding and affordable housing production. It is inevitable that homelessness will increase from this.

I don't like to think that way. My natural tendency is to think if we keep working hard enough, we can address the homeless population, but I am aware that we are about to see a situation where the number coming to homelessness exceeds any ability we have to bring people off the streets.

We bring people off the streets at a slower rate than the floodgates that are about to open—in terms of people who will be coming to the streets as a result of the cuts in the affordable housing programs. So it is a very, very tough environment.

Now, that is just the HUD effects of the cuts in housing programs. If you add to that the cuts that are occurring in AFDC and EITC and food stamps and then match what the States are doing as well, the combination is a very, very powerful problem of people who will be without resources or less resources. And every expert who has looked at this tells me that the inevitable effect will be more people in the homeless business. I don't think proper American housing policy ought to be to increase homeless programs as we watch more people come to the streets and then we deal with them as homeless.

The truth is, we have to be dealing with the problem before people become homeless. But the cuts in certificates and the cuts in affordable housing production and the cuts in the preservation program (so landlords will transform their property to nonsubsidized and we have no capacity to support them), those are the real problems that we face.

Mr. KENNEDY. I very much appreciate your comments, Mr. Secretary, because I think it is very important that we continue to recognize not only the bureaucratic changes and try to minimize the impact that these cuts are going to have, and I think you have made several excellent suggestions in terms of how we can deal with income targeting and how we can deal with encouraging work and doing other steps that can, I think, take some of the sting out of what are going to be very devastating cuts.

But I think that it is well worth keeping in mind that these policies are not going to help our housing in this country. We are going to be hurting the housing and the people that occupy it.

Secretary CISNEROS. If I may speak specifically to what I just said and the policy concerns that I raised on this bill, imagine a housing authority that loses operating subsidies so now it has to figure out how to meet operating requirements. They are going to have to cut something, maintenance or security, things that only make the conditions worse.

Now, we give them relaxation on preference rules and relaxation on income targeting so now they have an out. They bring people in at higher incomes, and what happens to the people who are at 17 and 20 and 30 percent of median income who are out on the streets? They have no options in terms of private housing.

At least the people at the upper end have some. They could go into overcrowded conditions or pay some kind of rents. But the people at lower ends, who are the people we are going to be keeping out with this circumstance, those are the folks who will end up on the streets. That is the interconnection between the cut on the budget side and the rules that we are discussing in this bill.

Mr. KENNEDY. I appreciate your comments.

Mr. Chairman, I appreciate your understanding about my travel problem. Thank you.

Chairman LAZIO. I thank the gentleman.

I just wanted to make two brief comments with respect to some of the budget reductions which are not within the jurisdiction of this subcommittee, and then turn it over to Mr. Ehrlich.

The preservation program, one of the programs that the Secretary just mentioned as being unfortunate and being cut, was recommended for elimination in the President's budget, and was in the rescission package signed by the President. Regarding EITC, a family with two children, for example, even under the revised numbers of the program, would get a higher credit in 1997 than they do right now or the following year in 1996.

Mr. Ehrlich.

Mr. EHRLICH. Thank you, Mr. Chairman.

Mr. Secretary, I am glad you are here today.

Secretary CISNEROS. Thank you.

Mr. EHRLICH. I enjoyed our discussion in my office.

Secretary CISNEROS. I look forward to visiting with you again.

Mr. EHRLICH. I think with today's headlines in the paper we will be talking again. I will get into that in a second.

I noticed in your testimony, talking about the changes in section 8, and particularly you have some problems with what we are doing here, and you also point out that the bill would prohibit portability, and you have problems with that as well.

I use that as a segue to the headlines in the *City Paper* concerning the tentative settlement between the ACLU and the city of Baltimore with respect to the high-rises. Are you up on all of this, before I—

Secretary CISNEROS. I haven't been briefed on it as much as I would like to be. I would be happy to speak in general terms. Bruce Katz has worked on it. We have not signed off at this point. I have not affixed my signature on any document yet.

Mr. EHRLICH. That is my first question. And excuse my ignorance. This is in litigation, obviously. This is a proposed settlement agreement.

Secretary CISNEROS. Right.

Mr. EHRLICH. I understand, as a member of the bar, it would be inappropriate for me to contact the judge. Is it improper for my office to let our views be known to your office prior to—

Secretary CISNEROS. Absolutely not. I would love—as a matter of fact, I will come over and sit down with you, or you can come over to HUD as early as this afternoon and we can bring you up to date.

Mr. EHRLICH. Thank you very much.

Let me get to the philosophical thing here a second. We had a very blunt, honest discussion in my office, and I appreciated that, and we talked about MTO, and you know what happened to MTO in Baltimore last year, and you know the bipartisan concern; Senator Mikulski in the Senate and my predecessor, Helen Bentley, here in the House, with respect to that program; and we are adult politicians, and you have obviously a very high rank in this government, and I appreciated the blunt manner in which we discussed this, because race plays an issue in almost everything in our country today, and it certainly played a part in that whole debate about MTO in Baltimore; we all know that.

But as I pointed out to you at that time, it just was not a racial issue, it was also a class issue, and as a result of our discussion—and I realize this is premature, but I wanted to make known to you my concerns about what I see as really MTO-2 dressed up as this settlement agreement and ask you, one—I guess your counsel—what statutory authority is there for this new kind of section 8 certificate that seems to be a race-based section 8 certificate? Because under this proposed settlement section 8 rental restrictions would require that families find housing in integrated neighborhoods, not under the traditional program where they can go wherever they wanted to go, which I have no problem with.

Secretary CISNEROS. I am going to have Bruce Katz, who is our chief of staff and a lawyer and who has been working on this, to answer your question.

Mr. KATZ. I would just at the beginning review some of what the plaintiffs were seeking in this case. They were seeking 14,000 certificates as well as a court order to stop any redevelopment of Hope VI in the city of Baltimore.

The partial settlement that was reported on in today's *Baltimore Sun* provides the city of Baltimore with 1,300 rental certificates as opposed to 14,000 and would permit the city to proceed with redevelopment in many of the Hope VI sites in Baltimore. This is not MTO, part 2; this is very different from MTO, one, because it is under court supervision. MTO was a demonstration program proposed by the previous Administration.

Mr. EHRLICH. I understand the procedural differences, and I am talking about substance. I will quote. For the 1,342 public housing families, HUD is setting up a \$2 million program to provide counseling on housing, jobs, school, transportation, and so forth.

Secretary CISNEROS. There is a basic difference from MTO, a basic substantive difference.

Mr. KATZ. The certificates were earmarked so that families could use them in areas of low poverty. They were basically compelled to move. They had to move to areas of low poverty. The way the partial settlement works, as far as I understand, is that the certificates would be earmarked only for the first 120 days and that would only be for families who were coming off of the waiting list. If a family is displaced from a particular public housing project, they can move to any housing of their own choice.

Mr. EHRLICH. I find it interesting, they interviewed some of the folks who will be affected by this, and some were not very happy because they want to stay near their friends and families and all of that.

Mr. KATZ. And they would be able to do that. Before the 4 months had run, tenants would be able to live wherever they wanted to live.

Plaintiffs brought this suit because of the desegregation patterns of the city of Baltimore, and I think it was the advice of our counsel that this is one of the worst fact patterns that we have seen in the country, and the judge was moving on an expedited basis.

The partial settlement limited HUD's liability. The settlement involves only 1,400 certificates and enables the city to proceed with Hope VI redevelopment, which we and the city believe is very important.

Mr. EHRLICH. We are getting down to brass tacks on all of this stuff, and I appreciate that. It is not just a racial issue and not a partisan issue.

My Democratic county executive is going nuts about this, and he is someone I have a great deal of respect for.

Mr. Secretary, we have a lot of questions, and I appreciate that we are here at the beginning stage. I think we can all start from one common denominator: The high-rises have failed; and reasonable people can disagree as to what remedies are appropriate and where and how remedies are implemented, but I will look forward to working with your folks.

Secretary CISNEROS. Congressman, I meant what I said. If you would like to get together this afternoon, we will make time, or I will bring a team over. If you did come over to the building, I could get everyone who was working on this to be there.

Mr. EHRLICH. We will probably take you up on that next week.

Mr. KATZ. Our assistant secretary for housing will be briefing some key subcommittee staff this afternoon, and maybe we could have your staff participate in that.

Mr. EHRLICH. I wanted to make the issue, as I said earlier, we know race plays a part in this, but it is not simply race, and the problem with MTO, quite frankly, was that working people resented aspects of the problem, and I see the same sort of resentment being generated across race by folks that work and are trying to do the right things in our society and the people who are trying to help around here.

Secretary CISNEROS. Understand that the problem of bringing down the high-rises—which you have just said failed, and I agree—and the commitment that we have made to Mayor Schmoke that we would set out on a 4-year, 5-year commitment to bring down the four big high-rises in Baltimore: Flag, Lexington, Murphy, and Lafayette—and I think we have plans now and money for two of the four, Lexington and Lafayette—requires that we place people somewhere else.

Where would they be? Some of them would be replaced on the site. Some of them would live in the community in housing that the housing authority would purchase, like single-family houses and duplexes and so forth, as many, many cities are doing now. Some of the units are vacant. So it is not exactly like we have to put ev-

everybody somewhere, because there are 25 or 30 percent vacant in some cases. And then finally, we have to use section 8 to allow people to live in the metropolitan area.

Federal law says we cannot concentrate people with section 8 back in the same neighborhoods. You cannot create a new section 8 ghetto where we had a public housing ghetto before, and the challenge before American society and Baltimore is not unique in this respect. I suspect that we are going to see this in community after community across America. It is one of the next big tough challenges for America, is how we accept people throughout a metropolitan area.

Our hope is, and what I am advised by people who work in the system is, if we do enough counseling for folks so that they can live independently—first time people are living self-sufficiently—if we pass the elimination of “take one, take all,” so that we do not have landlords losing control of their buildings because now they have to take everyone who shows up with a section 8 and whole buildings are converted to section 8 buildings; and, if we find ways to disperse people throughout the metropolitan area where there are jobs and schools, then that is the right thing to do.

The problem with MTO was that it said you can only go into neighborhoods that defined a certain way instead of a metropolitan area of almost 3 million people where people can find housing.

Section 8 has worked, by and large. It is a largely successful program, and I think that one has to believe that it is possible to find housing for 1,342 people somewhere in the larger Metropolitan Baltimore Area, which, as I say, is an area of 2.53 million people. I would hope that before setting the climate quite so hot, that the county executive and others would look at what can be done here.

Really, there are no easy answers. Leaving the high-rises up is not an answer; creating a new ghetto is not an answer. If we raise the temperature so hot that race and the sense that section 8 recipients are coming from the high-rises to our neighborhoods becomes the dominant cry from leadership, then I don't know how we are going to solve these problems in American society.

Mr. EHRLICH. With the chairman's indulgence, I think this is a great conversation.

Chairman LAZIO. Unanimous consent to give the gentleman an additional minute.

Mr. EHRLICH. Thank you.

I understand everything you said, and I agree, but, you know, we discussed this. You are not starting with these folks, black and white, with a blank slate. They have seen what past Federal housing policy, way before you came, way before you came, has done to working class solid neighborhoods, black and white. You have seen it. You have seen it. And, as a result, they are not happy and they are not predisposed to listen to the latest plan when they have been burned and they have to live with the results of those failed policies every day when they drive down the street.

That is the only point I wanted to make.

Chairman LAZIO. Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman.

This discussion about money that we get into, we can be advocates for more or for what is adequate, and we should be, and I

don't know that we have effectively done that this year. I think that we need to build that type of support.

It has been a good year and a new experience for all of us, and, like the preservation program, I mean, really, I think what the issue here is, we are trying to get more miles out of the good cars, that is what we are trying to do, except that we have to modify some contracts and do it in a very artful way, and that is really what we are trying to do.

And, of course, the Administration said we think there are other ways to do this, that we are trying to go back and renegotiate these contracts. It wasn't working. It was a good idea. But if you have got a good vehicle, you might want to buy your own gas and forget about the rules and regs.

In looking at this issue, the whole demolition issue, public housing works, section 8 works, but I think there are some limitations in terms of really what is one of the most fundamental changes in this: You only have so much money. How can we get more out of what we have to have?

Obviously, as I said earlier, I submit that the problem today is greater because we have greater disparities and the cost of housing is going in one direction, up, and the affordability is going down, people don't have as much income, so we have a bigger bloc of individuals.

You know, the 80 percent rule is an interesting—changing it to 80 percent. It was once 80 percent. We didn't have some of the sociological and economic problems that existed in public housing at that time. But the issue is, if we are now to take the money and provide assistance to those that have it, we will leave others behind. Isn't that correct?

Do we have numbers that actually can support the demographics and show us what the population is? I think we need, Mr. Secretary, to graphically illustrate who we are serving. We have to decide. One of the things that has to be decided by the Congress in terms of policy and by the President, and then you have to carry it out, is, who are we going to serve?

In other words, what I find interesting about what we have before us is that it is changing the nature of what the problem is, and, of course, in doing so, you are reducing the nature or changing the nature of the problem.

I think the idea of doing this on—looking at each city somewhat different, or each jurisdiction different, is important here. I mean it is nice to take and say, well, Minnesota is doing all right, but, boy, do they have problems down in Louisiana. But we have a different problem in these jurisdictions.

Secretary CISNEROS. Congressman, let me say I agree with you that the question becomes, who are we going to serve? I think there is a subordinate and corollary question, and that is, who are we going to serve in a way that works? Ideally, we have to serve first the very poor.

But serving only the poor, starting from the bottom, to fill whole buildings, that way doesn't work. So it is, who are we going to serve, but what are the practical models?

We know that the present system that has resulted in the average income in public housing being 17 percent of the area median

income doesn't work, preferences to the homeless, preferences to the very, very poorest, and so forth. So we have argued that we need to try to reachieve an income mix, and we agree with the direction that the chairman wants to go in that.

Our only comment here today is that we believe that the pendulum may have swung too far in saying everybody needs to be at 80 or can be at 80 percent of median, because when you combine that with the other things that are happening, changes in the preference rules, cuts in funding and operating subsidies, and so forth, the incentives are all loaded up at the upper end, and the result will be, we believe, that we will lose too many people at the lower end. So it is really a question of where you strike the middle.

We tend to think the Senate bill, which, as I said, 40 percent of the group needs to be below 30 percent, makes sure that there is some kind of balance in this. That is really the debate that we are having.

Mr. VENTO. The presumption of some of that, if we are talking about certificates and it is dispersed, it is another thing than if we are talking about an architectural model where you have hundreds of families in a single building.

Secretary CISNEROS. That is true. But going to 80 percent on the certificates is even more harmful, because what we are fearful of is that there will be a tendency for families who know a little bit more about how the system works and have done a little bit better economically to get the section 8 vouchers, and in the section 8 programs they are not the ones who need it at this time the worst. The ones that need it the worst are the poor families who would benefit from being out where the jobs are and where the good schools are.

Mr. VENTO. The problem is, if you push one problem around, you run into other problems. If we didn't have the magnitude of need, if we were looking at how many eligible and how many more people are eligible today in my community—and I wanted the chairman to hear this—is that the best housing for low-income people is public housing and section 8.

The problems that we have are, indeed, in private multifamily dwellings they are not nearly as good housing as the others, and, frankly, the tendency has been, of course, for those buildings which had limited, if any, section 8 or public assistance at one time, is to try and gain section 8 certificates and I think architecturally in other types of situations that are not as good situations.

So we actually end up in this instance rewarding failure, because they are competing for those certificates and they want them assigned to the particular project.

The only involvement we might have had is with a loan, an FHA loan or something. The activities out there in the community and what is going on are very important for us to recognize in terms of the impact.

Now, we went through a little bit of discussion about the new accreditation board and what was it was going to do and what the task is, but I think most of the points I tend to agree with you. I think the question is, where are the resources going to come from?

And one of the issues that I was involved in is discussion about penalties to communities. There was some suggestion that the cut-

off of funds and the types of limitations that go to communities, that you have a whole array of tools which are easily used with some degree of preciseness with regards to cutting off funds and other types of punitive actions against a community.

In fact, it was either the Inspector General, if I am not mistaken, who suggested that we ought to use CDBG funds as a basis, holding them up as a basis to get conformity with regards to other issues which would be another new arrow in the quiver of, I guess, HUD. I don't know.

Mr. Secretary, I find myself that this is a very awkward and cumbersome tool in terms of dealing with communities. There has to be due process. There has to be equity. It is very difficult, and that is my own observation, but perhaps you feel differently about this; and I want, for the record, your reaction, too.

I know that I had great doubts about the homeless grant program and the ability to hold that money up. I didn't quite share the enthusiasm with Assistant Secretary Cuomo about the ability and willingness of HUD to exercise what I looked at as a very blunt instrument in terms of gaining the type of performance we want on planning and some of the other activities.

Secretary CISNEROS. Congressman, I tend to agree with you; and I am not here asking for additional powers. I am not one that favors holding up CDBG or anything else for a simple reason and that is that HUD is not good enough or precise enough to employ its bureaucracy in a surgeon-like way. We tend to employ it as a blunt instrument, and we do damage, and we send out the wrong message. We act like heavy bureaucrats when we do that. I am not asking for that power.

What I don't support is diluting the tools that we do have today to act on troubled housing authorities. My fear is if we separate the responsibility that the board would have from some of the money accountability that we have and we end up with a board that results in telling HUD what it needs to be doing.

And perhaps I am sensitive to this right now because I am serving as Secretary and because I like the ability to say, yes. It has worked in Philadelphia and the step-in in Chicago and do what we need to do in Atlanta on Hope VI. And to just water that down by having an accreditation board who now I have to check with and without being able to do some of these things which I am prepared to be accountable for to the Congress and to the Administration. But what we do not need is another intermediate step.

Mr. VENTO. If that disassociates the actual responsibility for making the decision with carrying it out, it is a real problem in terms of the ability to function.

Chairman LAZIO. I thank the gentleman.

Ms. Velazquez.

Ms. VELAZQUEZ. Mr. Secretary, the House version of this legislation has no income targeting in it. The Senate version does. What are your views with regards to that?

And I am particularly concerned about one aspect and that is the removal of the 30 percent targeting credit by the House. What can we do to guarantee and to ensure that the poorest members of our community still have access to public housing?

Secretary CISNEROS. Well, let me say that I think that the removal of any restrictions that would allow income targeting to go to the 80 percent percentile for everyone in public housing is problematic. Not that I believe that everyone that is selected would be at that range, but I do believe that the housing authorities would have every incentive—given the other things that are happening on preference rules and operating subsidies—to try to improve their books, their budgetary picture by getting people of higher income capacity. And it would leave people who, then, are poor without a recourse to subsidized housing.

Let me say that I can see, Congresswoman, a way where someone would say, we could do this for a while just to reestablish the income mix or something of that nature.

But my experience, that is related to the point I made to Congressman Vento a moment ago, is that government just is not that good. When we are talking about 3,000 housing authorities and you have to take that responsibility and give it to someone else, government is not that good at threading the needle and finding that exact place that we need to be. I think it would be better to strike a compromise such as the Senate bill has and say that is where we want to be, instead of taking the risk that people who are really poor would lose access to affordable housing.

Ms. VELAZQUEZ. I also would like to know your feelings and views regarding the single grant from HUD. How does that work in terms of operating and capital expenses? How does that work?

Secretary CISNEROS. Senior grants?

Ms. VELAZQUEZ. No, the single grant from HUD.

Secretary CISNEROS. Again, this goes back to the question of accountability, because—follow the logic with me if you would. We have housing authorities today who are part of the problem. HUD has been part of the problem, but I must insist many housing authorities are part of the problem. They are not paragons of management. They have real problems. Some of them deserve the death penalty. There is simply little hope that they are going to be able to function. We do everything we can with resources, and we still can't pull them out of the hole.

To give those kinds of housing authorities more resources in a block grant fashion with less accountability just seems to me to imagine too much about their capabilities. It is really a leap of faith that I don't think is sustained by the facts.

So I worry about that. And I think the suggestions that we have made here would go a long way in cleaning up a lot of my concerns. I commend you to six points that I have made in my testimony about suggestions that we have for the chairman on how to find a middle ground here.

Chairman LAZIO. I will not spend too much time, because I know that we will have more informal discussions about this. I just have a couple of points I want to discuss for purposes of clarity.

Mr. Secretary, I think you were suggesting that H.R. 2406 would give block grants to dysfunctional housing authorities. In fact, H.R. 2406 would do quite the contrary.

The frustration that many of us have and the insistence that we are making with this bill is that we will not tolerate failure over long periods of time where we have, for example, 200,000 units

being supervised by housing authorities that have been on the troubled list for more than a decade, many of them some 16, 17, 18 years. This is a complete failure in terms of Congress, various Administrations, and those housing authorities. Unfortunately, the taxpayers and tenants pay the consequences. I wanted to clarify that.

I think we both agree that we want to move public housing away from being housing of last resort. And, to do that, we are moving toward mixed incomes, which I think is what you said you believe strongly in.

However, I am not sure that squares with your opening statement or your statements with Mr. Kennedy, with respect to the need—or your criticism of H.R. 2406's flexibility in terms of allowing managers to bring in mixed income through the repeal of preferences, and institution of local preferences.

Some of the low-income housing people on vouchers very much want the ability and the flexibility to move up to 70 or 80 percent, not because they are going to use it in every case, but because it may be necessary to make a project work if we are talking about clustering or making a new development, and increasing the stock where we don't have much. So, there are a number of concerns here that I have.

Also, the other thing that we need to keep in mind—and I am sure you do keep this in mind—is that we are dealing here not in fantasy but in reality. Given the numbers that we are looking at, which are large in terms of overall spending, will be likely \$20 billion, but with respect to the change in the section 8 accounts and the mark-to-market problem putting the squeeze on other accounts, we are going to be dealing in a climate where housing authorities will be dealing with fewer resources. In fact, the GAO study of June suggests that in many cases vouchering out, which is the Administration's proposal, I believe, would be more costly in many cases.

How do you suggest that housing authorities manage the situation where there are declining resources both because of the mark-to-market proposal, and assuming the GAO study is correct, that in many cases that vouchers will be more costly? How do you square that all in reality?

Secretary CISNEROS. Congressman, let me try to answer a series of the points that you made.

First, in the real world out there that you have referred to, there is not a bright line that separates housing authority that is about to become troubled from one that was troubled. The line between 50–50 and 70 swings back and forth, and housing authorities move back and forth across that.

So I am not suggesting that we would give block grants to troubled housing authorities. I do suggest that we ought to come down harder on those, but they do move back and forth. And sometimes it is just something as simple as an executive director who changes jobs that takes away the management capacity of that place.

So I do think that we need measure oversight generally, rather than taking the chance of giving massive unaccountable or unfettered funding to those that are very close. And that is my point.

Secondly, I would say, you said—

Chairman LAZIO. Could I interrupt you? Do you believe that H.R. 2406 has those accountability standards?

Secretary CISNEROS. I worry that the pendulum has swung a bit far on the accountability issues, because it is not clear what role the accreditation board will play versus what HUD will play and so forth. The issues that I commented on earlier.

Chairman LAZIO. Notwithstanding the fact that with the exception of possibly Washington where we have a court-appointed receiver, and Chicago, where there has been a HUD takeover, all other housing authorities over several Administrations that have been troubled have continued to receive good money after bad. Chicago, for example, we were talking about \$600 million or \$700 million.

Secretary CISNEROS. We are not asking for the world as it has been. We are asking for changes that mirror many of yours. We are talking about questions that are margins, and that is why we can discuss these in that way.

The Senate bill gives the housing authorities the flexibility that you said they were asking for to allow them to operate in this area. The Senate bill does that. It says, 30 percent of the units, 40 percent of the units need to be below a certain income level, but not all. And so we think that that is a better outcome than giving them complete flexibility because they have only asked for some flexibility.

Finally, the most critical issue that we confront, my number one priority—in the appropriations process that now threatens to be vetoed and come back. Where HUD is concerned with four or five areas where we got hurt badly. But the absolutely number one most critical priority that we need to reinstate, if we can, somewhere in the process, if the President vetoes and asked what we need for HUD, it would be the operating subsidies.

My answer to you is that I do not accept the fact that we have to take the world as it is right this moment regarding operating subsidies. I am hopeful that somewhere out of this process, the defense appropriations veto which has \$7 billion more than the Pentagon asked for, some such money can come to deal with the operating subsidies, which then create an environment that is not quite as harsh as the one today. What is fearful about the environment today is that the operating subsidies help create a circumstance that the housing authorities have to seek higher rents.

Chairman LAZIO. Would that be a higher priority than homelessness for you?

Secretary CISNEROS. Yes, it is the number one priority.

I had a meeting with the Office of Management and Budget and stipulated that, in a rank ordering, the first priority has to be some reinstatement of assistance to housing authorities because they cannot function with the operating subsidy levels.

Chairman LAZIO. Because that is not within the jurisdiction of this subcommittee, although we have a good relationship with—

Secretary CISNEROS. Mr. Chairman, you are an important figure in the congressional leadership discussions, and your opinion may be sought as the Chairman of the Housing Subcommittee at some point in this process.

I don't know how this process is going to play out. We do not know what the Conference Committee will do. We don't know how the White House will respond to HUD/VA. But if at any point in that process you are in a position to be asked, as I may be, I would hope we could agree that the greatest damage to the system that we work in here, which has been damaged in a number of places, but the greatest damage is likely to be the removal of that operating subsidy money. It shapes a lot of what we are trying to do in this bill. It creates a dynamic for the rest of this bill that the housing authority is going to be bereft of operating funds.

Chairman LAZIO. Thank you, Mr. Secretary, Mr. Marchman, Mr. Katz. Thank you very much.

This subcommittee now is in recess subject to the call of the chair.

[Whereupon, at 1:09 p.m., the hearing was adjourned, subject to the call of the Chair.]

APPENDIX

October 13, 1995

Rick A. Lazio
Chairman
Subcommittee on Housing and Community Opportunity

Opening Statement:
(as prepared)

Hearing on
H.R. 2406, The United States Housing Act of 1995
October 13, 1995

The Subcommittee will come to order.

Good Morning. I thank all of you for joining us for the third hearing on H.R. 2406, the United States Housing Act of 1995.

We have a tremendous opportunity this year. We have a mandate for change and, for better or worse, we have a department and an area of policy that is ripe for that change.

The Department of Housing and Urban Development is a 30-year old organization operating 60-year old programs. The U.S. Housing Act of 1937, the primary law governing housing programs in this country, is a Depression-era program that can no longer serve the needs of modern America.

H.R. 2406 repeals the Housing Act of 1937 and takes the focus of housing policies away from Washington and puts it where it belongs -- in our communities and neighborhoods.

There has been a lot of rhetoric tossed around about the need to make public housing a tool for families who need transitional assistance, to provide assistance to the working class who are so important to maintaining a viable community in our inner-cities. This bill makes federal housing assistance what it was designed to be: a step toward greater things; a program that you graduate from and move on.

With the exception of the elderly, disabled and others with special needs, H.R. 2406 makes housing assistance transitional, not in a punitive

sense, but by combining opportunities with responsibilities on the part of both the provider and the recipient of assistance.

H.R. 2406 creates a less bureaucratic structure. It gives greater power to non-profits and others whose skill at management is far greater than the federal government's. This bill allows for more mixed-income and mixed-use developments, breaking down the barriers to mobility, the barriers that trap too many in run-down projects and hopeless areas.

This legislation also brings to public housing a true sense of accountability, through enforceable measures and an end to tolerating failure.

The federal government does not exist to do the work of local communities. It exists to make sure local communities, neighbors working together, can make their homes, their own neighborhoods stronger and healthier.

Not everyone agrees with me. Too many remain committed to the outdated concept that the federal government knows best, that Washington can understand problems better than local communities. It is time to reject that idea because 60 years of experience in federal housing programs has clearly shown otherwise. Though Secretary Cisneros has struggled against the status quo, his testimony before the Senate last week and his prepared testimony for today both reflect a philosophy clearly grounded in the "Washington knows best" mind-set.

We have to stop making tenants pay the price for Washington's insatiable appetite for power.

As Chairman of this Subcommittee, I intend to bring the government's role in housing and economic development into the 21st century.

I am anxious to hear from you all this morning about your feelings on H.R. 2406. I also look forward to the testimony of Secretary Cisneros later this morning. His reaction to the proposals of H.R. 2406 I am sure will be helpful in perfecting this legislation.

As I did two weeks ago at our first hearing on this bill, I urge members on both sides to focus on good policy. I appreciate the input I have had from

several members and their staffs on improving this bill and I hope that they will continue to do so as this process goes on.

Before we go any further, I would like to recognize a group who is visiting with us today. A couple of weeks back I expressed appreciation to one of our witnesses who had come all the way from Alaska to testify, but I am afraid she has been outdone. I welcome the delegation from the Hong Kong Housing Authority and I hope our experience here can be of some value as you set up a housing system in Hong Kong. I'm sure if this Subcommittee lives up to its reputation, you will have an interesting time with us today.

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Testimony of

Lawrence B. Simons

**before
Subcommittee on Housing and Community Opportunity**

October 13, 1995

I AM LAWRENCE B. SIMONS, I SERVED AS ASSISTANT SECRETARY FOR HOUSING, FEDERAL HOUSING COMMISSION, FROM MARCH, 1977 TO JANUARY, 1981 -- THE ENTIRE CARTER ADMINISTRATION. DURING MY SERVICE AT HUD, I HAD RESPONSIBILITY FOR ALL THE ASSISTED HOUSING PROGRAMS, INCLUDING SECTION 8 AS WELL AS THE PUBLIC HOUSING PROGRAM AND THE FEDERAL HOUSING ADMINISTRATION, PRIOR TO 1977, I HAD BEEN A BUILDER/DEVELOPER OF HOUSING FOR OVER 20 YEARS. I BUILT MY FIRST APARTMENT HOUSE ALMOST 40 YEARS AGO.

I THANK YOU, MR CHAIRMAN, FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY CONCERNING HR 2406, THE PROPOSED "UNITED STATES HOUSING ACT OF 1995" . I HAVE READ A SUMMARY OF THE PROPOSED LEGISLATION AND WANT TO COMMEND THE COMMITTEE ON REALIZING THAT CURRENT HOUSING PROGRAMS AND POLICIES DO NOT MEET TODAY'S NEEDS. ON THE OTHER HAND THE COMMITTEE MUST RECOGNIZE THAT THE SHORTCOMINGS OF PROGRAMS AND POLICIES IN EFFECT TODAY ARE NOT NECESSARILY INDICATIVE THAT WHEN THEY WERE ORIGINALLY IMPLEMENTED THAT THEY WERE WRONG OR FLAWED. AS YOU GO FORWARD WITH HR 2406 AND YOUR PROPOSED CHANGES YOU MUST MAKE CLEAR HOW THE PROPOSED CHANGES WILL BE MADE WITHOUT DISRUPTING TENANTS AND WITHOUT WASTING A SUBSTANTIAL STOCK OF LOW INCOME HOUSING. SEVERAL ISSUES WARRANT CONSIDERATION

"REINVENT" DOESN'T NECESSARILY MEAN WE SCRAP EVERYTHING WE HAVE AND START ALL OVER AGAIN. LET'S PUT THE PROBLEM IN PERSPECTIVE AND DETERMINE WHAT WORKS, WHAT DOESN'T AND WHY. THE FACT OF THE MATTER IS THAT PUBLIC HOUSING SERVES A NEED THAT CANNOT SIMPLY BE FULFILLED BY THE PRIVATE SECTOR OVERNIGHT, OR EVEN OVER THREE YEARS. SOME 3,200 PHA'S OPERATE MORE THAN 13,000

PUBLIC HOUSING DEVELOPMENTS, WHICH AMOUNTS TO ABOUT 5 PERCENT OF THE NATION'S RENTAL HOUSING STOCK AND MORE THAN 15 PERCENT OF THE RENTAL STOCK IN SOME CENTRAL CITIES. THE INVENTORY INCLUDES 1.4 MILLION UNITS -- AND NOT ALL OF THEM ARE IN THE DRUG INFESTED, CRIME-RIDDEN, DECAYING STRUCTURES OF THE PUBLIC'S PERCEPTION. RESIDENTS ARE ALSO HOUSED IN GARDEN APARTMENTS, TOWN HOUSES, AND SINGLE FAMILY HOMES, MANY OF THEM INDISTINGUISHABLE FROM SURROUNDING BUILDINGS IN THE NEIGHBORHOOD. ACCORDING TO THE CENSUS BUREAU, PUBLIC HOUSING IS HOME TO 4.3 MILLION RESIDENTS, OR NEARLY 2 PERCENT OF THE NATION'S POPULATION. ONE MILLION MORE HOUSEHOLDS ARE ON WAITING LISTS, AND AN ADDITIONAL 13 MILLION HOUSEHOLDS MEET THE FEDERAL GUIDELINES FOR HOUSING ASSISTANCE, BUT RESOURCES AREN'T AVAILABLE TO SERVE THEM.

BY HUD'S OWN RECKONING, THE VAST MAJORITY OF THE NATION'S LOCAL HOUSING AUTHORITIES ARE FISCALLY SOLVENT. ROUGHLY 6 PERCENT, MOSTLY LARGE, INNER-CITY PROJECTS, ARE CONSIDERED 'DISTRESSED' AND ACCOUNT FOR ABOUT 13 PERCENT OF THE PUBLIC HOUSING STOCK. THESE ARE THE PROJECTS IN DEEP TROUBLE, WHICH REQUIRE RADICAL SURGERY.

MANY OF THE PROBLEMS CONFRONTING PUBLIC HOUSING ARE CONGRESSIONAL-MADE. WE SHOULD ADMIT AND LEARN THE LESSONS FROM OUR PAST MISTAKES, NOT SIMPLY THROW UP OUR HANDS AND WALK AWAY. THE MEDDLESOME AND CONFLICTING MANDATES OF CONGRESS ARE THE CAUSE OF THE UNDOING OF SOME OF OUR WORST HOUSING PROJECTS. LIMITING THE PORTION OF INCOME TENANTS PAY FOR THEIR RENT, THOUGH WELL-INTENTIONED, HAD THE EFFECT OF PUSHING SOME PHAS INTO FISCAL

CRISIS. LADENING PHAs WITH ADDITIONAL PREFERENCES ONLY EXACERBATED THE SITUATION AND CREATED WHAT MANY CRITICS, INCLUDING THE SECRETARY OF HOUSING HIMSELF, CALL " WAREHOUSES" FOR THE VERY POOR OR "HOUSING OF THE LAST RESORT." SURELY, NO PRIVATE ENTITY COULD BE EXPECTED TO SERVE SUCH A NEEDY CLIENTELE AND SURVIVE. IT IS NO WONDER THAT PHAs ARE HARD-PRESSED TO DO SO AS WELL.

SIMPLY PUSHING THE RESPONSIBILITY BACK TO LOCALITIES WITHOUT ACCOUNTABILITY IS NOT THE ANSWER, EITHER. IN AN INTERESTING FORESHADOWING OF MUCH OF TODAY'S DISCUSSION ABOUT EMPOWERING STATES AND LOCALITIES, EARLY LEGISLATION FOR THE PROGRAM STRESSED THAT PUBLIC HOUSING WAS TO BE UNDERTAKEN AS A LOCAL INITIATIVE, AND THE APPLICATION AND ACCEPTANCE OF FEDERAL SUBSIDIZED HOUSING WAS A VOLUNTARY ACTION. IT IS NOT SURPRISING, THEN, THAT MANY SUBURBAN COMMUNITIES NEVER SOUGHT TO HAVE PUBLIC HOUSING PROVIDED IN THEIR MIDST. EVEN IN CENTRAL CITIES, THE NIMBY SYNDROME RESULTED IN EXCLUSION FOR PUBLIC HOUSING RESIDENTS. AS ONE SCHOLAR POINTED OUT, THE STORY OF SITING PUBLIC HOUSING IN PHILADELPHIA IS REALLY A STORY ABOUT RACIAL PREJUDICE AND BIGOTRY. UNLESS THERE IS SOME ACCOUNTABILITY BUILT INTO THE SYSTEM, THERE IS LITTLE REASON TO SUPPOSE HISTORY WON'T REPEAT ITSELF.

WE NEED TO RE-ORIENT OUR ASSISTANCE BY PROVIDING HELP TO THE WORKING POOR AND THOSE WILLING TO WORK THEIR WAY OUT OF POVERTY. SOMETIMES THIS WILL RESULT IN PAINFUL CHOICES. PERHAPS MOST PAINFUL OF ALL, WE MUST RECOGNIZE THAT BY GIVING SCARCE SUBSIDIES

ONLY TO THOSE WHO NEED IT MOST, WE RUN THE RISK OF ISOLATING THEM SOCIALLY AND ECONOMICALLY. IF WE OPT INSTEAD TO FOSTER MIXED-INCOME COMMUNITIES, WE MAY GIVE PEOPLE THE WHEREWITHAL TO BETTER THEIR CIRCUMSTANCES AND MOVE OFF OF DEPENDENCY. TO SOME EXTENT, THIS MEANS MOVING PEOPLE OUT OF PUBLIC HOUSING AND DISPERSING THEM IN HIGHER INCOME AREAS WHERE THEY HAVE ACCESS TO EDUCATION AND JOBS AND BETTER NEIGHBORHOOD AMENITIES, AN APPROACH THAT HUD THROUGH VOUCHERS AND CERTIFICATES SHOULD RIGHTLY ENCOURAGE. BUT WE CANNOT "EMPTY OUT" ALL PUBLIC HOUSING; SOME PEOPLE WILL NOT HAVE THE WHEREWITHAL OR DESIRE TO LEAVE THEIR COMMUNITIES. THIS MEANS WE HAVE TO RESTORE PUBLIC HOUSING TO SOMETHING CLOSER TO ITS ORIGINAL PURPOSE AND TRY TO ATTRACT SOME OF THE WORKING POOR (SAY, WITH INCOMES 80 PERCENT OF AREA MEDIAN). WE COULD BEGIN, AS SOME HAVE SUGGESTED, BY ESTABLISHING RENT CEILINGS AND FLOORS RATHER THAN CHARGING RESIDENTS PERCENTAGES OF INCOME THAT DISCOURAGES THEM FROM WORKING AND IMPROVING THEIR ECONOMIC POSITION. WE CAN ALSO ALLOW RESIDENTS TO KEEP THEIR SAVINGS (JUST AS THE REST OF US WOULD EXPECT TO DO), AND DISPENSE WITH A SYSTEM THAT AMOUNTS TO A 30 PERCENT TAX ON EFFORT.

SKEPTICS OF THE MIXED INCOME APPROACH NEED TO CLOSELY EXAMINE PLACES WHERE IT HAS WORKED. THE NEW YORK CITY PHA PROVIDES A WORKING EXAMPLE OF SOCIALLY AND ECONOMICALLY INTEGRATED PUBLIC HOUSING. ITS RESIDENTS ARE ONE-THIRD ELDERLY, ONE-THIRD WORKING, ONE-THIRD VERY POOR. IN CHICAGO'S LAKE PARK PLACE, WORKING FAMILIES LIVE IN TWO PUBLIC HOUSING COMPLEXES

ALONG WITH TRADITIONAL PUBLIC HOUSING HOUSEHOLDS. MOST OF THE RESIDENTS ARE SINGLE-PARENT HOUSEHOLDS WITH AVERAGE INCOMES OF \$5,600 PER YEAR. HOWEVER, MANY OF THE WORKING FAMILIES ARE TWO-PARENT HOUSEHOLDS, AND THESE HOUSEHOLDS AVERAGE ALMOST \$25,000 IN ANNUAL INCOME. WORKING FAMILIES ARE A STABILIZING INFLUENCE IN THE NEIGHBORHOOD, AND MOST IMPORTANT OF ALL, A CONNECTION TO THE WORLD OF WORK.L

WE SHOULD NOT UNDERESTIMATE THE PAIN, DISLOCATION, AND COST OF TRANSITIONING FROM THIS SYSTEM TO THE NEXT. A REASONABLE SYSTEM THAT ALLOWS PHAS TO PHASE IN RENT INCREASES, RESTORE THEIR FISCAL SOLVENCY, AND MAKE CAPITAL IMPROVEMENTS THAT WOULD ENABLE THEM TO COMPETE WITH THE PRIVATE MARKET WILL TAKE SOMETHING CLOSER TO 10 YEARS. SOME PROJECTS, PRODUCTS OF SITE PLANNERS' INTENTIONS AND THE MOVEMENT OF JOBS TO SUBURBAN LOCATIONS, MIGHT NEVER BE RESTORED TO THE POINT WHERE THEY CAN COMPETE IN THE MARKET. TO BANKRUPT THEM OVER THE NEXT FEW YEARS WITHOUT PROVIDING AN ALTERNATIVE IS AN ACT OF FOLLY AS WELL. MOREOVER, WE SHOULD NOT BE MISGUIDED BY NAIVETE. WHILE, WE HAVE SEEN MUCH IMPROVEMENT REGARDING RACIAL DISCRIMINATION IN THE HOUSING AND LENDING MARKETS OVER THE YEARS, WE HAVE NOT YET ARRIVED AT THE POINT WHERE PUBLIC HOUSING RESIDENTS -- WHO, BY DEFINITION, ARE OF A LOW SOCIO-ECONOMIC CLASS, AND ARE DISPROPORTINATELY MINORITY -- CAN SIMPLY RELOCATE EN MASSE TO THE SUBURBS WITHOUT A RIPPLE OF PROTEST.

HR 2406 TO SOME EXTENT RECOGNIZES THE HISTORICAL EVOLUTION OF HOUSING PROGRAMS AND POLICIES AND ATTEMPTS TO CORRECT THE

CURRENT FAILING. IN ADDITION, BOTH THE ADMINISTRATION AND HR 2406 SEEM TO HAVE ADOPTED AS THE HOUSING POLICY THE CONCEPT OF TENANT BASED SUBSIDY AS OPPOSED TO PROJECT BASED SUBSIDY. I WILL NOT GET INTO THIS DEBATE EXCEPT TO THE EXTENT THAT IF WE ARE TO MOVE EXCLUSIVELY TO TENANT BASED SUBSIDY, WE MUST DO SO IN A TRANSITIONAL MODE IN ORDER TO BE CERTAIN THAT WE DO NOT WASTE THE HUGE FEDERAL INVESTMENT IN THOSE DEVELOPMENTS THAT DEPEND ON PROJECT BASED SUBSIDY-- TO WIT, PUBLIC HOUSING AND SECTION 8 NEW CONSTRUCTION AND SUBREHAB.

NOW TO HR 2406

- FIRST OF ALL IT RAISES TENANT ELIGIBILITY TO 80% OF INCOME FOR PUBLIC HOUSING AND ALL RENTAL ASSISTANCE PROGRAMS. PERHAPS THIS IS TOO GROSS AN APPROACH -- CERTAINLY THIS INCREASE SHOULD TAKE PLACE FOR ALL PROJECT BASED ASSISTANCE AND PUBLIC HOUSING IS INCLUDED AS TO RENTAL VOUCHERS, MAINTAINING THE 50% CEILING MAY BE MORE JUST AND EQUITABLE, ESPECIALLY AS FUNDING IS DECREASED OR MAINTAINED AT RELATIVELY LOW LEVELS.

- SECONDLY, WITH RESPECT TO HFAB'S, ALTHOUGH THEY SEEM REDUNDANT IF HUD IS TO CONTINUE AS THE AGENCY RESPONSIBLE FOR PUBLIC HOUSING THAN THE "HOUSING FOUNDATION ACCREDITATION BOARD (HFAB)" MAY END UP BEING JUST AN INTERSTITIAL LAYER OF BUREAUCRACY. IT SEEMS WISE TO MANDATE TENANT REPRESENTATION. IF YOU ARE TO GO THIS ROUTE, I WOULD RECOMMEND AN ADDITIONAL MANDATORY MEMBER -- EITHER THE MAYOR OR HIS REPRESENTATIVE. ELECTED LOCAL OFFICIALS SHOULD PARTICIPATE IN PUBLIC HOUSING SINCE THE LOCAL POLITICAL OFFICIALS HAVE THE ULTIMATE

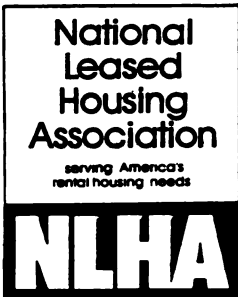
RESPONSIBILITY FOR THEIR CITIES WHICH MEANS THE BASIC INFRASTRUCTURE SUCH AS POLICE, WATER, SEWAGE, SNOW REMOVAL, ETC.

- THIRDLY, IN EXAMINING THE PUBLIC HOUSING BLOCK GRANT, ONE MUST IMMEDIATELY HOPE THAT IT WILL BE SUFFICIENT TO MEET ALL THE NEEDS OF THE LOCAL PHA. UNFORTUNATELY, WHEN IT COMES TO DEVELOPMENT AND THE CREATION OF NEW UNITS, BLOCK GRANTS DO NOT LEND THEMSELVES TO RELIABLE LONG TERM FLOWS OF MONEY TO SUPPORT LONG TERM DEBT. AS A RESULT, SUBSTANTIAL SUMS ARE USED UP FRONT TO WRITE DOWN COST. AS LESS MONEY BECOMES AVAILABLE, THE PRESSURE ON CAPITAL ADDITIONS BECOMES GREATER AND THE RESULT IS LESS DEVELOPMENT. FRANKLY THE FORMULA FOR THE BLOCK GRANT NEEDS SUBSTANTIAL CLARIFICATION. THE CAPITAL SIDE SEEMS SHORT WITH ONLY THE COMPREHENSIVE GRANT AVAILABLE TO TAKE CARE OF THE MODERNIZATION BACKLOGS.

PUBLIC HOUSING SHOULD GO BACK TO A BASIC FLOOR RENT AND THE PROPOSED LEGISLATION AUTHORIZE THIS. TO ENCOURAGE MIXED INCOME HOUSING IS ESSENTIAL FOR THE SURVIVAL OF PUBLIC HOUSING'S PHYSICAL RESOURCES. EXPANDING ELIGIBILITY TO 80¢ AND A FLOOR RENT PAVE THE WAY TO MAKING THIS POSSIBLE.

I WILL LEAVE TO OTHERS TO DISCUSS THE PROPOSED CHANGES TO THE CERTIFICATE/VOUCHER PROGRAM. I COMMEND THESE A NECESSARY TO GIVE THE PROGRAM AS BROAD AN APPEAL AS POSSIBLE -- OTHER PANELISTS ARE FAR BETTER QUALIFIED TO DISCUSS THESE CHANGES.

THANK YOU FOR THIS OPPORTUNITY AND I HOPE THESE COMMENTS PROVE HELPFUL IN FORMULATING YOUR LEGISLATION.



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TESTIMONY

PAUL GRAZIANO, PRESIDENT

NATIONAL LEASED HOUSING ASSOCIATION

COMMITTEE ON BANKING & FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING & COMMUNITY OPPORTUNITY

U.S. HOUSE OF REPRESENTATIVES

October 13, 1995

**TESTIMONY
PAUL GRAZIANO, PRESIDENT
NATIONAL LEASED HOUSING ASSOCIATION
HOUSE SUBCOMMITTEE ON HOUSING & COMMUNITY OPPORTUNITY
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Good morning Mr. Chairman, members of the committee. My name is Paul Graziano and I am General Manager of the New York City Housing Authority and President of the National Leased Housing Association on whose behalf I am testifying today. I am accompanied by Denise B. Muha, Executive Director of the Association, and Charles L. Edson of the law firm of Peabody & Brown, our general counsel.

The National Leased Housing Association, a coalition of 600 public and private sector housing organizations, is in a unique position to testify today. Half of our members are public housing authorities who administer the Section 8 Certificate and Voucher programs, while private sector participants who own project-based Section 8 housing comprise the other half. Many of our owners and housing authority members have been with the program from the beginning, so we bring great experience to bear.

We are here today to discuss H.R. 2406, the United States Housing Act of 1995, with emphasis on Title III, the new "choice-based" housing grant program, which would replace the present Section 8 certificate and voucher program.

Introduction

The Section 8 existing program has been successful in providing housing opportunities for nearly 1.5 million families throughout the country. In New York City alone, with the participation of 24,000 landlords, the certificate and voucher programs ensure affordable rents and decent housing for over 71,000 families.

Over the years, there has been a growing recognition that the housing problems in most communities are as diverse as the households in need. For some, housing problems are most directly a function of inadequate incomes. Tenant based Section 8 programs suit such households quite well. In some communities, housing problems are related to physical condition and quality of housing stock. At other times, an inadequate supply of housing or the wrong mix of housing (e.g. insufficient large apartments or accessible to people with disabilities) most frustrates low income households. And, at times the housing problems may be first and foremost rooted in social, psychological or medical problems, such as discrimination, domestic violence or mental illness.

The Section 8 tenant based and project based assistance programs have been successful, in part, because they provide for differing needs in differing markets. The

New Construction, Substantial and Moderate Rehab programs have helped address housing supply problems while the tenant based programs have offered choice and affordability in markets with an adequate housing supply. As the years have passed, however, new rules and regulations and a proliferation of set-aside programs have all weakened the Section 8 program and have only increased administrative expenses, diminished flexibility or reduced the amount of subsidy available to fill other pressing housing needs.

HR 2406 Contains Many Worthwhile Provisions

We commend the Subcommittee for replacing the Certificate and Voucher programs, as well as the multitude of specialized programs, with a single rental assistance program, a long overdue step to eliminate the senseless dual administration. However, we are deeply concerned about the Committee's decision to ignore the valuable contributions that project based rental assistance has made in meeting the needs of low income households. Project based rental assistance, as well as public housing, provide more than affordable shelter. Properly utilized, they can be the catalyst for significant neighborhood revitalization.

A provision which would allow the transfer of existing subsidy (either partial or total) from an existing public housing development to a new development would facilitate the creation of mixed income communities. Vacant units in the existing development could be backfilled with working families not requiring a subsidy (similar to, but with fewer restrictions than, the MINCS model). This approach would foster neighborhood revitalization and economic integration while minimizing the expenditure of additional federal funds.

NLHA wholeheartedly supports the Committee's decision to eliminate Federal Preferences in both the public housing and rental assistance programs. The dramatic decline in working families in New York City public housing from half of all households in the early 1980s to approximately 30 percent today is directly attributable to Federal Preferences. This has led to a deterioration in community stability.

The elimination of the shopping incentive credit is another significant and welcomed policy shift. In theory, a family that receives a housing voucher is rewarded - with reduced rent - when it shops for an apartment that rents for below the applicable payment standard. In reality, most families that obtain this benefit do not shop at all, but apply their vouchers to their current apartments, which may be less expensive due to physical condition, location, or in some cases, rent-control laws. In New York City, for example, approximately 45 percent of all families that have leased under the program chose to remain in their current apartments.

Families with housing vouchers who actually shop for housing at below-FMR rents tend to obtain housing of marginal quality, or which is located in areas with

concentrations of low-income families. Furthermore, the shopping incentive has resulted in a program that provides disparate benefits to families in largely similar circumstance. Some families, with the shopping windfall, pay less than 30% of their income for rent while other voucher recipients pay 50% or more of their income for rent.

We also commend the Committee for retaining other essential elements of a successful rental assistance program including the rent reasonableness standards, housing quality standards (either local or federal), locally established payment standards, and flexibility for tenants to pay an additional rent amount when they select units that exceed the payment standard.

We are concerned, however, that the bill does not provide for a cap on rent burden to ensure ultimate affordability. The Section 8 program has always been designed to provide eligible families with affordable housing. However, in New York over 10% of families assisted under the voucher program pay more than 50% of their income for rent, with some families paying more than 70%. We suggest a 40 percent maximum burden.

We support the elimination of certain program rules that have hindered both program participation and administration. Currently, multifamily housing owners with buildings of over 4 units who have previously accepted a Section 8 tenant are required to accept a new Section 8 tenant, absent good cause. This requirement has driven away many landlords who would otherwise welcome Section 8 tenants. Small landlords, in particular, fear that these provisions may limit their ability to screen tenants, or, at a minimum, that they may incur legal costs to defend their screening decisions. As a result, many small landlords, a valuable resource for safe, decent rental housing across this country, refuse to participate in the Section 8 program. The repeal of the "endless lease" and the 90 day notice requirement to opt out of the program are other important steps toward removing barriers to landlord participation.

We applaud the fact that certificates and vouchers are effectively merged into one program, a block grant. However, we have several difficulties with the block grant concept. First, we believe that the present contractual arrangement between the housing authority and HUD gives a greater sense of stability to all parties concerned. Even if the contract term has to be reduced from five years to three or two years to meet budget problems, there still would be a greater source of stability than the one-year block grant. Second, we question whether block granting is necessary to provide the program flexibility which everyone desires. It seems that very little will be gained by permitting the creation of a myriad of program rule between jurisdictions when what really is needed are the programmatic changes which were discussed earlier in this testimony and which are contained in the bill. Indeed, the bill provides the best evidence of our major premise that program flexibility can be achieved by simple statutory changes.

Comments On Miscellaneous Sections

I would now like to go through specific provisions of the Act, and highlight the good, the bad and the parts that need clarification:

- We endorse Section 101 which would provide for more flexible use of federal assistance, mixed-income communities, increased accountability, incentives to work and recreating the Rental Assistance Program so that it operates in a manner that more closely resembles the private housing market.
- Section 102 (8) would exclude "any amounts" of income "not actually received by the family." This is not clear. Would payroll deductions for income taxes, social security, etc. not be counted as income? Such exclusions would reduce disincentives to work.
- Section 253 of the Act provides that payment standards should be based on "rental indicators". This is an ambiguous provision, as no direction is given as to whether or not the rental indicators are binding. If indeed the payment standards must be based on "rental indicators", then the rental indicators are nothing but fair market rents by another name.
- Section 303 (d) is ambiguous as the section title refers to recapture upon turnover while the body of the text seems to refer to the lease-up of incremental units. Currently the program allows twelve months to lease-up new allocations. Units which are not leased within this timeframe are subject to recapture. This is reasonable for incremental units. If, however, the intent is to ensure that resources do not sit idle for long periods after an existing unit is turned over, an eight month deadline for reobligation would be reasonable.
- Section 304 provides for an Administrative Fee of 6%. Clearly, this will impose a hardship on LHMA's.
- NLHA supports section 321 (a) which reinstates the eligibility threshold at 80% of median income.
- Section 321 (b) provides for Income Review "once every 3 years, in the case of elderly families and disabled families". This should be modified with the words "where the sole source of income is from a disability or retirement benefit."
- The treatment of Portability has been split up with part of it in

Section 321 (d) and the other part in Section 356. It would be much clearer if Section 321 (d) would start with the wording in Section 356.

It would then read:

TREATMENT OF ASSISTED FAMILIES WHO MOVE OUT OF JURISDICTION OF LHMA

If an assisted family moves outside of the jurisdiction of the local building and management authority providing the housing assistance for the family, the authority may not provide assistance for the new dwelling unit of the family. However, a local housing and management authority into whose jurisdiction the family has moved may, at the discretion of the agency and notwithstanding any preferences under subsection (c), provide housing assistance for such family (or a certain number of such families) who has moved into the jurisdiction of the authority and on whose behalf such assistance was being provided, at the time of such move, by the authority for the jurisdiction from which the family moved.

We applaud this concept. However, a third provision should be added requiring that all LHMA's phase out portability cases for which they are billing by requiring that they use one half of their incremental and turnover vouchers/certificates each fiscal year to absorb cases for which they are presently billing.

- We support Section 322, especially the establishment of a minimum rent of \$50.00. However, we recommend that the Committee clarify that this minimum rent would not be further adjusted by a utility allowance.
- In Section 323, it is not clear whether rental indicators are to include utilities or not. The bill nowhere mentions the concept of utility allowance but does refer to gross rents.
- Section 328 (b) on Housing Quality Standards states that "The Secretary shall differentiate between major and minor violations of such standards." Since HUD has been talking about doing this for many years, we would suggest that the Act specify the deadline for completion.
- Section 328 (c) requires that LHMA's submit the results of all unit inspections to the Secretary and Inspector General. This is expensive, inefficient and administratively burdensome, while providing no apparent

benefit. The same requirement applies to public housing in Title II. Both provisions should be deleted.

- We support Section 351 (b) that provides where the LHMA acts as owner, "The Authority shall be subject to the same requirements that are applicable to other owners." We trust that implementation of this requirement shall be the same as that for other owners.

- We support Section 354 (b) which enables an Authority to refuse to provide for housing assistance payments for a unit when the rent charged for that unit has been deemed unreasonable.

- The definition of "Assisted Family" in Section 371 should be changed to read:

The term "Assisted Family" means an eligible family on whose behalf housing assistance payments are made under this title or who has been issued a voucher but for whom no housing assistance payments have yet been made.

- We commend the Committee for the accreditation and oversight process and the establishment of the Housing Foundation and Accreditation Board as specified in Title IV. Some further clarification of the relative and respective roles of HUD and this board may be in order. However, it is imperative that local housing authorities be held accountable and this title would provide the tools to accomplish this.

Repeal of the United States Housing Act

The bill would repeal the United States Housing Act of 1937. There is much symbolism in that simple provision and on balance we do not think it positive. The United States Housing Act of 1937 has produced about four million units of low income housing providing homes for about ten million Americans. Many will view the simple repeal of that act as repudiation of what is stood for, and we are sure that is the message you want to give.

On a more practical level, the United States Housing Act of 1937 still governs the four million units as a matter of law. For example, Section 8(c) of the current act governs rent increases for Section 8 new construction and substantial rehabilitation projects. We do not see how it can be repealed concerning those projects as a legal matter. Further, there does not seem to be a specific provision providing that the government honor its commitments under its current Annual Contribution Contracts for both Section 8 and public housing and its Housing Assistance Payment Contracts for Section 8. Many of these contracts have over

twenty years to run. We find nothing in the choice-based rental housing mechanism that provides specific funding for the honoring of these contracts. This is a real concern due to the block grant nature of the new funding provisions, giving Congress the ability to reduce the amount of the block grant below what is needed to honor the contractual commitments.

We are sure that it is not the intent of this legislation to provide a mechanism whereby contracts can be abrogated. We very much welcome the opportunity to work with your able staff to provide the technical language to prevent these unintended consequences in the event that the committee chooses the alternative of complete repeal of the United States Housing Act of 1937. However, a preferred alternative would be either to maintain the United States Housing Act of 1937 on the books with your legislation taking the form of an amendment, or to adopt a series of savings clauses for the 1937 provisions that currently assist projects.

In conclusion, Mr. Chairman, we wish to applaud your initiative in introducing H.R. 2406 and commend you and your staff for the many hours that it took to recraft our basic housing legislation. The Act has many pluses and, with the improvements suggested herein, as well as others in the public housing title which New York City Housing Authority will communicate separately, will prove to be housing legislation of which we can all be proud.

We would welcome the opportunity to work with your able staff to provide technical language to prevent these unintended consequences.

**Tenant-based Rental Assistance:
Making It Work in the Private Market**

Testimony of

**Christina L. Garcia
Vice-President
Wildwood Management Group, Inc.
San Antonio, Texas**

and

**Past President
San Antonio Apartment Association**

and

**Member, Board of Commissioners
San Antonio Housing Authority**

On behalf of the

**National Apartment Association
and
National Multi Housing Council**

**Before the
United States House of Representatives
Subcommittee on Housing and Community Opportunity
of the Committee on Banking, Finance and Urban Affairs**

October 13, 1995

Chairman Lazio, Mr. Gonzalez, other members of the Committee, my name is Tina Garcia.

I commend you for calling this hearing to discuss Title III of H.R. 2406 regarding tenant-based assistance I thank you for including me and my trade associations on the panel.

I speak today from more than 17 years of personal experience in the property management business. I am Vice President of Wildwood Management Group, Inc, a property management company specializing in multifamily property management throughout Texas. Wildwood is one of the largest property management companies in San Antonio and one of the largest women-owned businesses in the city. I have served in numerous leadership positions in the multifamily industry including President of the San Antonio Apartment Association and Chairman of the Board of Commissioners of the San Antonio Housing Authority.

I am here today on behalf of two principal trade associations representing the private apartment industry: the National Apartment Association (NAA) and the National Multi Housing Council (NMHC).

NAA is the national federation for 147 state and local associations of apartment industry professionals including developers, owners, investors and property managers. NAA represents more than 24,000 apartment industry professionals who own or manage more than three million apartment units. NMHC represents the largest apartment companies and financing sources in the country. Many NMHC members own and operate portfolios of thousands of units across several states. NAA and NMHC operate a single legislative program and thereby provide a unified voice for the private apartment industry on Capitol Hill. By the way, 36 percent of United States

households are renters and rental housing contributes more than \$150 billion annually to the gross domestic product, making it the fifth largest sector of our economy. Of the 80 million renter households in the United States, one-and-a-half million receive tenant-based rental assistance.

My comments today are confined to tenant-based assistance and Title III of your bill. I want to point out, however, that the National Apartment Association and the National Multi Housing Council support a federal housing policy which includes strong, continued tenant-based and project-based programs.

Mr. Lazio, we congratulate you and your staff on drafting an excellent bill. Title III of H.R. 2406 vastly improves upon the current tenant-based Section 8 program by making it operate in a private market context and removing costly regulatory burdens on property owners. You and your staff have worked for many months and your product is superb.

Before I comment specifically on H.R. 2406, I would like to provide some background on the private apartment industry's view of the tenant-based program. Tenant-based assistance, in theory, can work. But I am here today to tell you that the program does not operate half as well as it should because, over time, it has been amended to include a set of rules that are contrary to sound private market practices. HUD studies from 1990 and 1994 show that on average, approximately 20 percent of voucher recipients studied failed to find a suitable apartment and returned their vouchers unused. Eighty percent is a good success rate if you're shooting foul shots. But in my view, a 20 percent failure rate in this program is staggeringly high for such a critical matter for our nation's low income families as locating suitable shelter. Those 20 percent failures result in large part from the anti-free market design of the program. The immensely burdensome regulatory requirements cause some companies that manage

good quality, well-located market rate housing to shy away from participation in the tenant-based program.

That's the bad news.

The good news is that of all the aspects of HUD reform on the Committee's agenda in this Congress, there is perhaps a greater degree of consensus on how to fix tenant-based Section 8 than on any other topic. The private apartment industry, public housing authorities, congressional leaders, and, on many points, the Department of Housing and Urban Development, agree on changes that will improve the program. I am submitting with my testimony a letter signed by eight leading trade associations, several of which are here today, outlining an eight-point reform program.

A foundation for this emerging consensus is a report commissioned last year by the National Apartment Association and the National Multi Housing Council and conducted by Abt Associates, a highly-regarded housing policy research firm headquartered in Cambridge, Massachusetts.

The Abt report conducted in-depth, candid interviews with apartment managers to assess how to improve private sector interest in the tenant-based program. The answer that came back was clear: private owners will be more likely to welcome Section 8 recipients to their buildings when the program is amended to operate as much as possible within the bounds of the private marketplace. In other words, voucher money should be as good as, and just like cash. Section 8 families should get all the protections that their non-subsidized friends and neighbors receive but no greater protections. Owners should not be penalized with rent-up delays, late payments from Public Housing Authorities (PHAs) and constraints on market-driven decision making. I have attached excerpts from the Abt report to my testimony for inclusion in the record of this hearing.

Mr. Chairman, I am very pleased to say that your bill, H.R. 2406, includes nearly all of the recommendations from our eight point coalition agenda. We commend you for fashioning a program that will work better for tenants and owners alike.

At this juncture let me say that we believe it's critical that you and other Members of Congress keep in mind that some of the proposed HUD reinvention reforms, such as converting obsolete public housing to vouchers, are premised on a highly functioning, successful tenant-based program. *As a result, if I could convey one message to you today, Mister Chairman, it would be to urge you and your colleagues to enact the changes needed to make tenant-based assistance function more effectively this calendar year. An effective voucher program is fundamental to our nation's housing policy and we should seize the opportunity this year to fix it.*

Let me now provide a bit of detail on the two key disincentives in current law to owner participation in the voucher program: the "endless lease" and "take one, take all" provisions, both of which your bill eliminates.

The endless lease provision denies owners their usual option to opt-out of a rental relationship with a tenant when the lease expires. Outside of Section 8, it is a well-established provision of landlord-tenant law that when a lease expires, both and owner and tenant have the option of ending the rental relationship. Owners need this option to protect the value of their investment from tenants who cause losses. Likewise, tenants need the option to opt-out if the owner is providing an inferior product. Under Section 8, the owner loses this option. Owners are required to infinitely continue the rental relationship or go through the lengthy, costly, court eviction process to end it. This so-called endless lease provision, while enacted with the admirable intent of protecting Section 8 recipients, has had an unintended and opposite effect: many owners choose not to participate in the program at all.

The take one take all provision says that an owner who accepts one Section 8 recipient must accept all who apply to any property in his or her ownership portfolio. In other words, once an owner has accepted a voucher holder, that owner is not permitted to make a business judgment to limit the number of Section 8 recipients living in his or her properties. Again, the intention was to aid recipients but the outcome was the complete opposite: some owners choose not to participate at all, or to "take none," rather than be forced to abide by take one take all. I and my fellow managers of well-located, well-maintained apartment housing want to be able to accept some voucher holders. It's good business and it creates good opportunities for Section 8 recipients. But we want to be able to impose reasonable limits.

HUD says they agree with the private apartment industry on this topic but has proposed a compromise that would require many property owners to take a "reasonable" number of Section 8 tenants, with the actual number represented by "reasonable" set in the range of 15-20 percent of the units in a given building. In our opinion, this is not an acceptable compromise. We strongly oppose HUD's suggestion for this new, formulaic requirement. It would continue to violate the need for owners to make responsible business decisions. It would institute a new, and greater level of regulation at some properties than ever before in an era where we all have agreed to move toward deregulation. The prospect of a HUD official in every building counting heads and filing monthly compliance reports is terrifying to our members.

Mr. Chairman, if you and your colleagues can eliminate the take one take all and endless lease provisions this year, you will immeasurably improve the tenant-based program. What you will accomplish is an expansion of the program. Far more property owners will want to fill their apartments with Section 8 tenants and tenant mobility opportunities will expand. This program expansion will come at no budget cost. This would be a great accomplishment indeed.

Here Mr. Chairman, let me make one point of the utmost importance: removing these two provisions in no way will deny Section 8 tenants any of their rights and protections under the laws of this country as afforded to all tenants be they rich or poor, black, white or brown. All tenants in this country are protected under the Fair Housing Act, the Americans with Disabilities Act, and comprehensive state and local tenant rights statutes. These laws provide a complete set of protections. There should not and cannot under these laws be any arbitrary or discriminatory treatment of Section 8 tenants nor can any action be taken against Section 8 tenants without just cause and due process.

I would like now to mention briefly a few other issues:

First, we endorse your bill's elimination of so-called federal preferences. The current preference rules serve to target essentially all housing assistance to extremely low income people. Federal preference rules are one of the causes of the devastating concentrations of poverty in our inner cities and older housing stock. If there is one lesson we've all learned in this business over the years it's that we must avoid concentrations of poverty in housing and strive to create mixed income communities. As the Low Income Housing Tax Credit and tax-exempt bond programs have proven, mixed income housing provides well-maintained positive environments for lower income people.

Second, we applaud Section 322 of your bill which gives all recipients the option to pay more than 30 percent of their income for rent. Current law disallows some recipients the option to pay above 30 percent of their income. This, in some cases, denies families the option of stretching to make rent payments above 30 percent of income in order to rent an apartment in a community where important employment, educational or family resources are located.

Third, we support Section 104 of your bill which allows local jurisdictions to set tenant rent contributions in a manner which rewards rather than penalizes recipients who increase their earned income. However, we believe this section would be improved by establishing a required, federal formula to reward work either through earned income disregards, ceiling rents or both.

Fourth, we would strongly urge you to add provisions to your bill to end the unnecessary monetary losses that owners currently experience as a result of Section 8 rules. Our recommendations include required late payments from Local Housing Management Agencies (LHMAs); a requirement for timely inspections; an option for administering agencies to approve a unit for leasing while a minor repair is being made, and flexibility for LHMAs to make unit-by-unit inspections on a less than annual basis if a given owner/manager has a proven record of providing high-quality units. These changes are critically needed to fulfill your intention to make tenant-based assistance "as good as cash".

Fifth, we would strongly urge you to strike paragraph (4) of Section 324 of your bill which gives LHMAs unlimited authority to add terms other than standard market provisions to the lease. It is unclear why this paragraph exists and it contradicts Chairman Lazio's intention to make the lease as similar as possible to a private market lease.

Sixth, we suggest that you amend Section 353 to require a payment standard that is at or within the range of the "rent indicators". Section 353 appears to allow LHMAs to set a payment standard at a very low percentage of the rent indicator and thereby provide a very low level of rental assistance to a greatly expanded number of recipients. While such a policy might be politically attractive to local officials, it would have damaging effects on the stock of housing and would compromise the tenant-

mobility goal of the program as recipients would have difficulty moving out of inner city areas without a full rental subsidy.

Finally, we endorse your proposals calling for certain responsibilities from renters. Including minimum rent payments. On the same theme, we suggest you include a provision that recipients lose their assistance if they are evicted from their current apartment. Recipients who violate the lease in one apartment should not be allowed to retain their subsidy and potentially repeat their misbehavior in another.

Mister Chairman, in conclusion let me point out that the National Apartment Association and National Multi Housing Council recently released a major report entitled the *Future of the Apartment Industry*. The report assesses the ways in which a wide variety of factors ranging from computer technology to financial markets will impact the apartment industry. This Congress will create the future path for housing programs for years to come and the outlook for the tenant-based assistance program is very poor if it continues to operate as it does today. We believe that tenant-based assistance can be transformed into a program that delivers real choice and opportunity to its recipients. But only if it operates in a manner which does not penalize the providers of housing.

Thank you for the opportunity to appear before the Committee today. I would be glad to answer any questions you may have.

Third, we support Section 104 of your bill which allows local jurisdictions to set tenant rent contributions in a manner which rewards rather than penalizes recipients who increase their earned income. However, we believe this section would be improved by establishing a required, federal formula to reward work either through earned income disregards, ceiling rents or both.

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PRINCIPLES FOR REFORM OF TENANT-BASED ASSISTANCE

1. MERGE THE VOUCHER AND CERTIFICATE PROGRAMS

Operating both the voucher and certificate programs with their differing administrative procedures creates unnecessary costs for housing authorities and HUD. Consolidating the two programs into one will streamline program delivery and save federal funds. The principal difference between vouchers and certificates is that voucher holders are permitted to pay more than 30 percent of their income for rent while certificate holders are not. We support a program which retains the option for tenants to pay more than 30 percent of income for rent giving them a wider range of apartments and opportunities, as long as they are not overburdened by rental payments and some reasonable percent of income rent cap is established. Both the House and Senate advanced bills last year which combined the two programs and allowed tenants to pay more than 30 percent of their income for rent.

2. THE LANDLORD-TENANT RELATIONSHIP SHOULD OPERATE UNDER PRIVATE MARKET RULES

The current Section 8 program includes several rules intended to benefit and protect tenants. While these rules were created with good intentions, they have had unintended and harmful effects on tenants. Because these rules constrain the ability of property owners to make rational business decisions, many landlords choose not to participate in the Section 8 program at all. This shrinks the stock of apartments from which Section 8 tenants can choose. A 1994 study by Abt Associates recommended that Congress revise the Section 8 landlord-tenant relationship to mirror private market practices. In its May 1995 legislative proposal, HUD endorsed several of the Abt report recommendations.

In particular, Section 8 tenants should sign a standard, private market lease which gives both tenant and landlord the option to not renew the lease at the end of its term. Under current law, Section 8 landlords are locked into an "endless lease" and must renew leases for Section 8 tenants. Other counter-productive provisions include "take one, take all," which requires landlords who rent to one Section 8 recipient to rent to all Section 8 recipients, and the 90-day notice required to terminate a Section 8 contract. Please note that if these provisions are eliminated, Section 8 tenants would still receive all the protections of state and local tenant law as well as federal protections under the Fair Housing Act, the Americans with Disabilities Act and other statutes.

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3. MAINTAIN THE CURRENT DELIVERY SYSTEM

We support the current system for administering rental assistance which is run by local housing authorities in the majority of jurisdictions and by other agencies in some jurisdictions. Those units of government which currently administer rental assistance provide competent administration and contribute indispensable knowledge of local markets. Program administrators as well as owners who rent to Section 8 tenants should be required to comply with strict performance standards.

4. CREATE INCENTIVES FOR SECTION 8 RECIPIENTS TO ATTAIN SELF-SUFFICIENCY

Current law contains strong disincentives for Section 8 recipients to find work or increase their earned income. Increases in tenant income often are outweighed by required increases in Section 8 rent payments, work-related expenses and decreases in other forms of public assistance. Tenant rent payment rules must be amended to encourage self-sufficiency and to return Section 8 to its original purpose as a temporary support and a stepping-stone out of poverty. For a limited time after a Section 8 family increases its income, it should not be required to pay an increased contribution toward its share of the Section 8 rent. After a family has increased its income and stabilized its situation, its rent contributions should gradually increase.

5. END FEDERAL PREFERENCES: MAKE LOW INCOME WORKING FAMILIES ELIGIBLE FOR SECTION 8

Congress should eliminate the current "federal preference" rules which effectively limit Section 8 assistance to extremely low income people. Congress should reinstate the program's original eligibility requirements and admit families earning up to 80 percent of area median income. This change would increase private apartment owner participation in the program, generate federal budget savings and in conjunction with principal 4. above, allow Section 8 to support families striving for self-sufficiency.

6. MAINTAIN FMRS AT A LEVEL THAT ALLOWS REAL TENANT CHOICE

Probably the most important immediate change needed to set Section 8 on a positive course is for Congress to reverse HUD's recently proposed rule to reduce the base for Section 8 Fair Market Rent (FMRs) from the 45th to the 40th percentile of rents paid by recent movers. HUD says it supports a Section 8 program which offers tenants the opportunity to choose apartments in areas that offer job opportunities and good schools. But reducing the FMR defeats this goal. Lowering FMRs will increase concentrations of very low income people in some neighborhoods and put large areas of the housing market out of reach. Without a reasonable rent standard, attempts at reform including those mentioned in this

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letter will be nearly impossible. We urge the relevant committees to reverse HUD's decision. We also encourage you to improve the FMR methodology so that FMRs reflect true market rent levels.

7. ENCOURAGE MOBILITY FOR SECTION 8 TENANTS

The public and private sector housing providers represented by this letter are committed to encouraging tenant "mobility" -- the opportunity to select from apartments in a wide variety of neighborhoods. To make mobility initiatives such as tenant counseling and metro-wide administration successful, they should be locally designed rather than forced on communities by the federal government. Jurisdictions that choose to implement mobility programs should be fully compensated.

8. END FEDERALLY-MANDATED SET-ASIDES OF SECTION 8S

After subtracting the numerous set-asides from the pool of new Section 8 units, program administrators end-up with a meager allocation of Section 8s with which to serve their lengthy waiting lists. Local housing authorities and other program administrators should be empowered to establish their own local priorities for Section 8 assistance, subject to a written plan developed with public notice and comment.

9. STREAMLINE INSPECTION PROCEDURES

Current inspection procedures can create unnecessary delays and costs for both owners and local Section 8 administrators. While there should continue to be strict requirements for housing quality, improvements can be made such as allowing program administrators to use local housing codes as the basis for inspections rather than federal Housing Quality Standards.

Sincerely,

**Institute of Real Estate Management
National Apartment Association
National Assisted Housing Management Association
National Association of Housing and Redevelopment Officials
National Association of Realtors
National Leased Housing Association
National Multi Housing Council
Public Housing Authority Directors Association**

cc: Chairmen and all members of Senate and House housing authorization and appropriations subcommittees



**FINAL REPORT ON RECOMMENDATIONS ON WAYS TO MAKE
THE SECTION 8 PROGRAM MORE ACCEPTABLE
IN THE PRIVATE RENTAL MARKET**

March 1994

Submitted to:

**Mr. W. Donald Campbell
Senior Vice President
National Multi Housing Council/
National Apartment Association
1850 M Street, NW - Suite 540
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Submitted by:

**Meryl Finkel
Abt Associates Inc.
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Abt Associates Inc.

CHAPTER 1

INTRODUCTION¹

1.1 Report Framework and Background

This report on potential improvements to the Section 8 program should be viewed in light of several recent trends in the housing market in general and in the U.S. Department of Housing and Urban Development (HUD) in particular:

- There is some evidence that housing markets in some areas around the country are beginning to tighten, which may lead to reduced owner acceptance of Section 8 unless actions are taken to address owner concerns.
- Housing assistance needs have been growing at a faster rate than assistance budgets, meaning that all recommendations must take budget constraints into account.
- There is a strong push in HUD to create new opportunities for people living in very poor areas to move to higher income areas, promoting greater economic integration. One such initiative, the HUD Moving to Opportunity program, relies on Section 8 Vouchers and Certificates as the tool through which low-income households will move to higher income areas.
- HUD is trying to move away from being process-driven to becoming more outcome-oriented.

The Section 8 Existing Housing programs were designed for the purpose "of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing."² The programs have been successful. There are currently over one million households receiving assistance through Section 8 Rental Voucher and Certificate programs administered by public housing agencies (PHAs) throughout the country. Recent reports indicate that the quality of housing provided in the Section 8 programs is generally good, and rent

1. The author would like to acknowledge the valuable input of several groups and individuals. The property owners and managers who participated in the focus groups, gave generously of their time to provide their perspectives on the Section 8 program. Stephen D. Kennedy of Abt contributed extensively to all stages of the research and analysis. James E. Wallace, Judith D. Feins and William (Chris) Hamilton, all of Abt Associates, provided valuable comments on early drafts. Finally, the persistence and attention of W. Donald Campbell of the National Multi Housing Council/National Apartment Association made this project happen.

2. See the authorization for assistance payments in 42 U.S.C. Sec. 1437f(a).

burdens are in the vicinity of 30 percent of income.³ Early evaluations of the Section 8 programs also confirmed that the Section 8 rental programs were able to provide comparable units at substantially lower cost than new construction programs.⁴

At the same time, there have been concerns that Section 8 units may be concentrated in certain geographic and economic submarkets. Recent initiatives, such as the Moving to Opportunity demonstration, refocus attention on the role of Section 8 in promoting economically mixed housing and assisting low-income residents to rent housing in higher income neighborhoods.⁵ However, some owners of good quality units in such neighborhoods are reluctant to rent their units under Section 8.⁶ It appears that many owners feel that participation in Section 8 is more time-consuming and costly than renting their units in the private rental market, so that owners who have alternative rental options may often prefer to rent in the conventional market and not to rent their units under Section 8. *If the Section 8 program is to achieve its goal in*

3. See *Characteristics of HUD-Assisted Renters and Their Units in 1989*, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, March 1992. Also S. Kennedy and M. Leger, *Final Comprehensive Report of the Freestanding Housing Voucher Demonstration*, U.S. Department of Housing and Urban Development, May 1990.

4. See Wallace James et al., *Participation and Benefits in the Urban Section 8 Program: New Construction and Existing Housing*, Abt Associates, Inc. Cambridge MA, 1981; Mayo, S.K., Mansfield S., Warner D., and Zwitchkenboun R.: *Housing Allowances Programs—A Comparison Based on the Housing Allowance Demand Experiment, Part I: Participation, Housing Consumption, Location and Satisfaction. Part 2: Costs and Efficiency*, Abt Associates Inc, Cambridge MA, 1980; Schnare A.B. Moss W.B., Pedone C.I., Heinz K.G., and Wiley B.P., *The Costs of HUD Multifamily Housing Programs: An Analysis of Development, Financing, and Subsidy Expenditures*, Urban Systems Research and Engineering, Cambridge MA, 1982; Sumka H.J. and Stegman M.A., "An Economic Analysis of Public Housing in Small Cities," *Journal of Regional Science* 18(3), 1978, pp. 395-410.

5. This goal is explicitly stated in the Section 8 program regulations at 24 CFR 882.103 (c): "PHAs are encouraged to promote greater choice of housing opportunities by: (1) Seeking participation of owners in any areas in which the PHA has determined that it is not legally barred from entering into Contracts...." The authorizing legislation for Moving To Opportunity, in 42 U.S.C. Sec. 1437f states that the demonstration goal is to help participants "...to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons..."

6. Owner interest in the Gautreaux program among suburban owners was reportedly quite low. See Leonard S. Rubinowitz, "Metropolitan Public Housing Desegregation Remedies: Chicago's Privatization Program" *Northern Illinois University Law Review* 12(3), Summer 1992, p. 655. Focus group discussions with unsuccessful searchers which were conducted by Abt Associates as part of the reconnaissance for the Section 8 Utilization study revealed that unsuccessful enrollees were more likely to search for housing in low-poverty areas. These searchers often reported encountering owners who were unfamiliar with Section 8 and who refused to participate. See DeMarco et al., *Reconnaissance Report for a Study of Section 8 Rental Voucher and Certificate Utilization*, Abt Associates, Cambridge MA, November 1991.

promoting economically mixed housing, several changes should be made to program and the way it is implemented. The objective should be to make the program more accepted by owners in low-poverty areas but without compromising program goals of providing low-income households good quality affordable housing in the private market. We feel that the key to making the program more attractive to these owners is to make Section 8 operate as much like the unassisted market as possible.

The National Multi Housing Council and National Apartment Association contracted with Abt Associates to conduct this study of potential areas of improvement in the Section 8 program. These organizations represent primarily large property owners and managers, who together own and manage a substantial portion of the nation's multifamily rental housing stock. Many members of these organizations have been reluctant to participate in Section 8, because they feel that the program imposes undue time and cost burdens. Recently members have become concerned that nonparticipation has been wrongly construed as discrimination in some instances. They, therefore, have a heightened interest in making the Section 8 program more compatible with normal private market operations.

Abt Associates is a social policy research firm based in Cambridge, Massachusetts. Our interest in this research stems from the company's long history of involvement in the implementation and evaluation of housing allowance programs for HUD. This experience includes but is not limited to:

- Conducting and analyzing two of the three initial experiments to test housing allowances (the Demand Experiment and the Administrative Agency Experiment). The results, in part, led to the actual adoption of the Section 8 program;
- An early, national evaluation of the Section 8 program;
- Implementation and evaluation of the Housing Voucher Demonstration;
- A study, currently under way for HUD, of enrollee success in utilizing Section 8 Vouchers and Certificates; and
- Also currently under way for HUD, a study to assist in the design, implementation, and early assessment of the Moving to Opportunity demonstration.

The purpose of this report is to make recommendations on ways in which the Section 8 program can be made more attractive to property owners in the private rental market, while not compromising program goals of providing good quality, affordable housing to low-income

families in the private market. *The recommendations in this report reflect the opinions of Abt Associates based on past and current research, and do not necessarily reflect the opinions of the National Multi Housing Council or the National Apartment Association.*

Our discussions of areas of concern and recommendations for the Section 8 program are organized along the continuum of activities associated with administration of Section 8: tenant selection, issues relating to new leases, payments and Public Housing Agency (PHA) relations, and lease renewals. Section 1.2 summarizes our recommendations in each activity area followed by a description of the study's research methodology in Section 1.3. Chapter 2 provides an in-depth discussion of the issues raised by owners relating to each of the program activity areas. Chapter 3 describes Abt's recommendations in detail.

1.2 Summary of Recommendations

The main difference between a Section 8 lease agreement and an unassisted rental agreement is the fact that in Section 8 there is a three-way relationship among the owner, the renter, and the housing agency, in which each of the parties affects or is affected by the relationship between the other two parties. For example, the initial inspection is an interaction between the owner and the housing agency whereby the housing agency makes certain that it is only paying for good quality housing. However, until the unit passes the inspection, the Section 8 Voucher or Certificate holder cannot receive assistance for the unit. Similarly, if the unit fails the annual reinspection, even if the failure is due to resident-caused damage, rent payments by the PHA to the owner are abated. Termination of a lease, which is an agreement between the owner and the renter, must be approved by the PHA. This three-way relationship makes every interaction more time-consuming and costly compared with an unassisted resident. Many owners of good quality properties who have alternative rental options prefer not to incur these additional burdens and, therefore, choose not to participate in Section 8.

In the early experiments to test rental assistance programs this three-way relationship did not occur. Households received subsidies directly and were responsible for all relations with the owner. The three-way relationship may have originated from later attempts to protect owners (to assure them of receiving at least partial payment every month), residents (to assure them that their rights would be protected), or government interests (to assure that government subsidies were being spent only on good quality housing). However, these attempts to protect

each of the parties may have had the opposite effect in some ways. Instead of increasing owner participation by guaranteeing a portion of the rent, the program's restrictions may discourage owner participation. Similarly, the attempts to protect residents may in fact limit the choice of units available. Finally, some of the methods used to protect the public interest may in fact add unnecessary administrative costs for the system as a whole.

Our recommendations center on the idea that the Section 8 program should operate as much like the regular market as possible while recognizing that in some areas it is impossible, and probably unwise, to remove all government involvement. Our recommended approach would increase the accountability and responsibility of each of the parties involved—the housing authorities that administer the program, the owners who rent units under the program, and the residents who live in Section 8 units—but still maintain program goals of providing affordable, good quality housing to low-income families. The goal in each recommendation is to focus on the two parties essential to the relationship. Rather than addressing concerns through added involvement of housing authorities or increased regulations aimed at specific areas, we propose reducing the involvement of the third party to the extent possible.

Resident Selection Recommendations

- Outreach to owners should reiterate that tenant selection and screening are the responsibility of property owners and managers.
- The program should be changed to allow owners to terminate Section 8 tenancy in the same way unassisted leases are terminated. This would include having the right to limit the initial lease term, to decide whether or not to renew a lease, and to undertake evictions based on local law.
- The program should be changed to allow owners to change their mind about accepting Section 8, whether in a given property or overall.

Lease Recommendations

- The owner-resident lease should define the rights, responsibilities, and appropriate remedies of the two parties, without PHA involvement in the owner-resident relationship. The HUD Secretary could still maintain the right to require inclusion of certain terms in the lease, but housing agencies should have no further role in owner-resident relations.

Inspections/Quality Standards Recommendations

- Steps should be taken to make the implementation of Section 8 Housing Quality Standards (HQS) more flexible and reflective of the goal of providing good quality housing, rather than housing that includes a specific set of features.
- The program should change to allow certification of a property instead of each individual unit, should be considered. This could substantially reduce vacancy times between rentals.
- An outcome scoring policy, with a possibility for "conditional approval" of a unit that requires only minor repairs should be considered. This approach would decrease vacancy times and allow more flexibility in approving units, without compromising quality, because all units would still need to be brought up to standard and reinspected.
- Steps should be taken to improve the consistency and timeliness of inspections.

Payments Recommendations

- Public housing agencies should be required to make payments on time, and be subject to standard market penalties if they are late.
- Security deposits could remain at their below market level, but the process for collecting for damages should be improved so that it does not interfere with normal market operations.
- Rent payments to owners should not be abated during the lease term, except at the discretion of the resident, based on whatever normal rent-withholding procedures are allowed by the local jurisdiction.
- Consideration should be given to changing the payment mechanism so as to end the current three-party system. This could be done by shifting to a two-party check that would have to be endorsed by both the renter and the owner. In this way, responsibility for payment could be fully vested in the renter, while assuring that the Section 8 payment was, in fact, used to pay the owner for rent.

Lease Renewal Recommendations

- The program should be changed to give both parties to the lease agreement (the owner and the resident) the right to renew or terminate the lease at the end of its term, with appropriate notice, as well as the right to set lease terms.
- Annual inspections should be scheduled so that there is enough time for an owner to make required repairs and have the unit reinspected prior to any lease renewal

date. Deficiencies found should not occasion rent abatement during the original lease term.

The series of recommendations presented above are aimed at making the Section 8 program more attractive to owners of good-quality properties in the private rental market. The way this should be accomplished is by making the Section 8 process as similar to regular market operations as possible. We recommend that implementation of these recommendations should be done through demonstration programs prior to full implementation in order to examine the effects of these changes on the parties involved. This can most effectively be done by requiring HUD to implement the changes initially in a probability sample of PHAs and to evaluate the effects of the changes by comparison with program and recipient outcomes in a probability sample of PHAs operating under current procedures.⁷

1.3 Research Methodology

This report relies on a range of data sources, including information collected and assembled by Abt Associates and others for previous research efforts, and new information collected specifically for this study.

For this project, a series of four focus group discussions were conducted during the first week of December 1993 in two locations: Alexandria, Virginia and Dallas, Texas. Each of the groups was composed of four to five rental property owners and/or managers with experience participating in the Section 8 program. In addition, one group in Dallas also included three nonparticipating owners. The focus groups were led by a professional focus group moderator from Abt Associates, who also led some of the earlier focus groups that were conducted for Abt's study of enrollee success in utilizing of Section 8 Vouchers and Certificates. Participants for the groups were recruited by the focus group facilities from lists of member organizations that were provided by the National Multi Housing Council and the Texas Apartment Association. Specific participants were selected based on knowledge of and experience with the Section 8 program.

7. We understand that the emergency certificates issued in Los Angeles as a result of the earthquake include several features designed to remove the riskiness of accepting a Section 8 renter. In particular, owners can offer month-to-month leases, the proportion of units in a property leased under Section 8 can be limited, and eviction procedures are those set by state law. Follow-up on landlord acceptance of these certificates might be useful.

Focus groups have long played a central role in private business research, and have more recently come to be used in public policy research as well. These discussions with small groups of individuals provide the opportunity for in-depth discussion and probing, so that a full understanding of issues and concerns can be obtained. Focus group research is an ideal tool for understanding owner concerns regarding Section 8. Because the range of concerns is broad and the issues are often complex and interlinked, a group discussion helps owners clarify and pinpoint the key issues. The concerns raised by the focus group participants, including those who participate in Section 8 and those who do not, were fairly consistent and were similar to the concerns expressed in earlier focus groups with participating Section 8 owners (including both large and small owners and managers) that Abt Associates conducted for HUD. Thus, we feel that the groups served their purpose of helping us understand the full range of owner concerns.

The informal conversations among the participants in each group consisted of a discussion of three specific areas of potential concern: tenant selection and screening, rent levels and compensation issues, and relations with the local PHAs. In each of these topic areas we explored owners' experience with unassisted rentals and with Section 8 rentals (or perceptions regarding Section 8 for nonparticipating owners). Owners were asked about their concerns about the program and their recommendations for changes and improvements.

The purpose of the focus groups was to help us identify the primary areas of concern to property owners from among the large array of potential concerns and to hear a range of opinions from a variety of perspectives. Actual recommendations on ways to address owner concerns were developed by Abt Associates based on our experience with all aspects of the Section 8 program.

TESTIMONY

**OF CHARLES DI MAGGIO, VICE PRESIDENT
GRENADIER REALITY CORPORATION
ON BEHALF OF NATIONAL ASSISTED HOUSING MANAGEMENT ASSOCIATION
ASSOCIATED BUILDERS OF GREATER NEW YORK**

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE**

Mr. Chairman and members of the Committee, my name is Charles Di Maggio, I am Executive Vice President with Grenadier Reality Corporation in Brooklyn, New York. I am here today representing the National Assisted Housing Management Association (NAHMA) and the Apartment and Building Owners of Greater New York (ABO).

NAHMA represents managers of privately owned, government-assisted housing who are committed to providing affordable housing to people with low incomes.

ABO is a trade association whose members own and manage 375,000 rental apartments in New York City including rent controlled units, rent stabilized units and governmentally assisted housing.

Both NAHMA and the ABO are ready to work with the members of this Committee to ensure that this program is one that can be accepted in the marketplace. This acceptance will give eligible residents a fighting chance to realize the opportunity provided by a choice-based system to reside in decent, affordable shelter.

It is unmistakably clear that to gain acceptance in the market- place certain necessary and specific programmatic and structural changes to the current program are necessary.

NAHMA is on record as supporting several changes with respect to the tenant-based program. As many of these changes have been spoken to by other members of the panel in the interest of time I would simply refer to an attachment to our written testimony, which lists these changes, be included in the record.

These changes would make the tenant-based program more acceptable to managers of assisted housing, because they eliminate administrative burdens that make vouchers less appealing to a landlord or property manager than a resident who pays their rent without receiving housing assistance from the government. These changes are all supported by the industry groups testifying before you today.

Title III of HR 2406 goes a long way towards making tenant-based assistance more acceptable

in the marketplace; however, there are a few areas in addition to the tax consequences that we would like to highlight today that are of particular concern to owners and managers. We hope you will consider these issues in your final bill that is passed.

First: Payment Standards Must Be Adequate

Under Title III, specifically section 353 and section 323, is a description of how payment standards would be established under the revised program by HUD.

It is unclear to us how the proposed standard to be developed by HUD differs from the current system of establishing FMRs. I can tell you as a manager in the City of New York that there are real concerns about the adequacy of FMRs currently established by HUD which simply do not provide enough funds for properties in New York City to operate. Not because we are poor managers but because we operate with an unionized labor force and manage properties that exceed the standards of the so-called adjacent market rate housing which in New York is rent regulated.

As the Chairman is well aware HUD has proposed and now implemented a change in the FMR standard that would lower FMRs from the 45th to the 40th percentile. With a change such as this, which has a serious detrimental affect on our ability to operate properties, we would certainly like to better understand the basis for HUD's proposal and the source of their rent survey in a rent regulated market where market rents are artificially depressed.

Second: Can HUD Administer the Rental Indicators?

Also, related to the overall question of administrative capacity, I would raise a concern about the department's ability to publish rental indicators by market area in the federal register on a timely basis. As the Committee is well aware, in the past FMRs have not always been established and published in the federal register on a timely basis. Recent comments from HUD indicate its ability to do so in the future on a timely basis is seriously at issue given the current staff's capability.

We would urge this committee to take these concerns into consideration.

Also, under Section 323 of the legislation, each rental indicator shall be adjusted each year to reflect changes based on the most recent available data. While NAHMA supports the inclusion of language in the bill that provides for an annual adjustment, we wonder how such a system differs from the current methodology providing for annual adjustment factors under the Section 8 program.

The current system of AAF has been called into question. Here again it would be helpful to understand the differences between the proposed system and the current system to better understand the utility of the changes in the City of New York and elsewhere.

Third: The Termination of Tenancy Provisions are Appropriate

Section 325 of the bill establishes general grounds for termination of tenancy. NAHMA and the ABO of New York strongly endorse language in this section of the bill that establishes a grounds for the termination of tenancy based upon activities that threaten the health, safety or peaceful enjoyment of the premises by other tenants or employees who manage this housing.

Mr. Chairman, we particularly welcome the inclusion of this language in the proposed bill and we especially take note of the fact that you have included employees of management companies. On behalf of the assisted housing industry, I would like to thank you for this recognition.

Fourth: Administrative Grievance Clarification Needed

Section 330 of the bill indicates that each local housing and management authority providing housing assistance shall establish and implement an administrative grievance procedure under which assisted families have an opportunity to dispute grievances concerning adverse housing management actions.

NAHMA has long been on record in opposition to the establishment of lease and grievance procedures for assisted housing. We are concerned that the language of this bill may not clearly remove the owner and manager from this procedure.

Fifth: Rent Regulation Adds Additional Questions

Finally, Mr. Chairman, I would like to speak to one particular issue that concerns those of us in New York burdened with rent regulation and at best an archaic housing court system. Theoretically, when project-based buildings are transformed to the voucher system, they may not be able to raise and adjust rents to cover costs. Under existing New York regulations we believe that the last subsidized rent will be the tenant's initial rent permissible. Future rent increase will not be gaged by a building's needs but governed by the city-wide rent regulations board. Our ability to remove tenants that are unable to pay unsubsidized rents will be further complicates by our unsympathetic housing courts.

NAHMA Supports Tenant-Based and Project-Based

In conclusion, I would like to remind the Committee of NAHMA's long-standing and vocal support of project-based Section 8. In our opinion a workable tenant-based assistance program and project-based program are needed to provide quality, affordable housing to Americans. To sustain this country's 30-year investment in affordable, housing for low-income families we need your support, Mr. Chairman, and that of this committee to reform the project-based program into a cost effective viable program.

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TENANT-BASED ASSISTANCE REFORMS
PROPOSED IN TITLE III OF H.R. 2406
"THE UNITED STATES HOUSING ACT OF 1995"

Testimony of Charles S. Wilkins, Jr.
Senior Vice President, The National Housing Partnership

Before The U. S. House of Representatives
Committee on Banking and Financial Services
Subcommittee on Housing and Community Oppourttnnity

October 13, 1995

The National Housing Partnership was established by Congress in accordance with Title IX of the Housing and Urban Development Act of 1968, to operate for profit while encouraging "maximum participation by private investors in programs and projects to provide low and moderate income housing." NHP, directly or through affiliates, is general partner with respect to over 123,000 multi-family units and manager of over 126,000 multi-family units located throughout the United States. This portfolio is evenly divided between market rate apartments and apartments financed or assisted under various HUD programs. NHP supports a strong federal role in housing, exercised through effective governmental structures, sound programs and capable private and public sector partners.

Introduction

Mr. Chairman and members of the Subcommittee, thank you for inviting The National Housing Partnership to comment on the reforms to HUD's tenant-based assistance programs proposed in H.R. 2406, The United States Housing Act of 1995. The proposed reforms respond to the most important problem: the need to reduce the current unacceptably high rate of program failure, by making tenant-based assistance compatible with standard private rental market practices and thereby increasing dramatically the number of participating landlords.

Mr. Chairman, according to HUD¹, one household in five is unable to find housing and must return its tenant-based assistance – imagine their frustration, after 60 days or more of searching for housing, and often after waiting years for assistance. If we simply gave families cash instead of a voucher, they would find housing, so the problem is not the families – the problem is the program itself. Put simply, we have to make tenant-based assistance as good as cash, and the way to do that is to make the program compatible with standard private market practices so that more landlords will accept it. I am very pleased that your proposed reforms do just that.

I and my fellow owners and managers want to accept tenant-based assistance recipients, but we will require a program that is compatible with standard private market rental practices. You have proposed exactly these types of reforms, and my comments today will suggest a few clarifications, so that the reforms will have their intended effect.

The National Housing Partnership

The National Housing Partnership is Congressionally authorized to channel private investment into affordable housing. Our diverse national portfolio of over 123,000 units is divided equally between assisted and conventional housing. My name is Charles Wilkins, I am a Senior Vice President at NHP, and I have spent the past twenty-two years developing, operating, and financing affordable housing – single family and multi-family, with and without subsidies.

The Proposed Legislation Makes Major Improvements

In particular, the legislation removes the “take one, take all” requirement, replaces the “endless lease” with a lease term as agreed between landlord and tenant, and utilizes market-standard lease provisions applicable to non-assisted tenants in the same building. These changes will go a long way toward eliminating private landlords' frustrations with tenant-based assistance, while providing assisted tenants with the same protections as non-assisted tenants.

¹ Office of Policy Development and Research, Issue Brief No. 2, March 1995. “A nationwide study of Section 8 certificate and voucher utilization, completed in 1994, found that 80 percent of recipients in large cities were able to use them successfully” (page 2).

Clarifications Are Needed in Three Major Areas

1. **Changes to the Standard Lease** - Using the landlord's standard lease is the right approach. However, the legislation should allow the standard lease to be modified only for two specific purposes: first, to include the actual provisions of section 325 Termination of Tenancy; and second, to include only those additional market-standard provisions necessary to protect tenants. As written, the legislation appears to allow the Housing Authority to expand the Termination of Tenancy provisions and to impose additional conditions that are not market-standard.
2. **Assurance of Payment** - under the current programs, landlords have two major frustrations in getting paid. First, some local courts consider the assistance payment a partial payment of rent, and do not permit termination of the lease even though the tenant has not paid his or her portion of the rent. The legislation must clarify that non-payment by the tenant is grounds for termination even if the subsidy portion is paid. Second, assistance payments are often paid late, in the wrong amount, or both, and the landlord has no way to compel the housing authority to perform. The legislation must provide for a late payment charge if the Housing Authority does not pay the correct assistance payment on time.
3. **Timely Decisions by the Housing Authority** - another major frustration with the current program is that inspections and "rent reasonableness" determinations may take weeks -- time when the landlord is receiving no rent and when the tenant is prohibited from moving in. The legislation should require the Housing Authority to make these determinations promptly.

Attached are specific suggested clarifications to the proposed legislation, to implement these suggestions and to further improve program effectiveness.

Conclusion

Mr. Chairman, thank you for the opportunity to share these remarks with you and with members of the Subcommittee. I am quite pleased with the legislation as a foundation for reform, and I hope that my suggestions will help the Subcommittee to make tenant-based assistance much more useful for the millions of low income Americans who depend on it. In closing, I encourage the Subcommittee to act promptly on tenant-based assistance reform, because it is a necessary precondition to the comprehensive housing policy reforms to which you are committed. I will be happy to answer any questions you may have.

attachments

**SPECIFIC COMMENTS ON TITLE III
OF H.R. 2406, AS INTRODUCED**

Comments In Support

The following are comments in support of a number of specific provisions of the Act:

Page, Line	Comment In Support
114,7	§322(a)(2) Minimum Rent - the \$50 minimum monthly contribution toward rent and utilities is reasonable, is consistent with the moral position that every resident contribute something, and will help counterbalance the widespread under-reporting of income by assistance recipients.
116,5	§324(1) Agreed Lease Term - the Act replaces the current "endless lease" with a lease term as agreed by the parties. After "take one, take all", the "endless lease" is the single largest flaw in the current programs. This change will significantly encourage greater landlord participation, while providing tenants the same protections received by non-assisted tenants.
116,11	§324(3) Market Standard Lease Form - the Act correctly provides that the lease form shall be the same as used by the landlord for non-assisted tenants. This will encourage greater landlord participation and will assure that assisted tenants receive the same benefits and take on the same responsibilities as non-assisted tenants.
116,20	§325 Termination of Tenancy - the Act appropriately (a) leaves to local courts the determination of "violation" of the lease and "other good cause"; (b) includes threats to property employees as a cause for termination; (c) includes threats to persons residing in the immediate vicinity of the property as a cause for termination; (d) includes a broad definition of "criminal activity". NHP suggests that report language indicate that HUD regulations implementing Title III refrain from interpreting or elaborating upon §325.

Suggested Changes to Increase Landlord Participation

Suggestions are presented in the order their topics appear in the legislation. Language to be added is shown in *italics*. Language to be removed is shown in ~~strike-through~~. Commentary is included in **bold**.

Page, Line Suggested Change

- 114,20 **§322 Change in Resident Contribution - "(c) CHANGE IN RESIDENT CONTRIBUTION.—The Local Housing and Management Authority shall promptly notify the housing owner of any prospective change in resident contribution. With respect to any retroactive change in resident contribution, the Local Housing and Management Authority shall collect any additional resident contribution directly from the family and shall refund any excess resident contribution directly to the family."** The recertification process should be transparent to the landlord. Retroactive changes should be handled by the Housing Authority without involving the landlord (retroactive changes do not affect the total rent and thus should not involve the landlord; all that is at issue is the sharing of the rent between the family and the Housing Authority).
- 116, 14 **§324(3) Required Lease Addendum - "... , together with any addendum necessary to include the many terms required under this section state the appropriate provisions of section 325; and"** The addendum should be restricted to the minimum necessary to incorporate the §325 termination provisions, verbatim. The Housing Authority should not be permitted to interpret, elaborate upon, or expand the termination provisions of §325.
- 116,17 **§324(4) Additional Lease Provisions Imposed By The LMHA - "(4) contains other terms and conditions that the local housing and management authority determines are appropriate; provided, however, that such terms and conditions must be consistent with standard practices in the local private rental housing market."** The existing language is too broad; the Housing Authority should be restricted to situations where the landlord's proposed lease is significantly less protective than standard leases used in the local private rental markets. NHP suggests that report language indicate that LMHAs may not propose changes to market-standard leases endorsed by local Boards of Realtors®, Bar Associations, Apartment Associations or similar organizations.
- 117,19 **§325(a) Clarification of Tenant Responsibility to Pay Rent - "(3) Notwithstanding any provision of State or local law, failure by the tenant to pay the resident contribution, determined pursuant to section 322, in the manner provided in the lease shall constitute grounds for termination of the lease."** In many jurisdictions, the landlord's receipt of the housing assistance payment is held to be acceptance of a partial payment of rent that bars the landlord

from seeking termination of the lease in the event the resident contribution is not paid. This is an inappropriate result that should be barred by statute.

- 118,8 §326(b) Ineligible Owners - "... may not provide *enter into new rental assistance commitments* under this title" Suspension, debarment and LDPs are prospective sanctions; thus the prohibition should reference new rentals. For existing rentals, if the resident is willing to remain in the unit, the subsidy should continue; otherwise it is the resident who is punished.
- 120,1 §328(a)(3) Pre-Move-In Inspection - "... conducted before any assistance payment is made for the unit; *provided, however, that if such determinations are not made within 3 business days following notification by the tenant or landlord to the Local Housing and Management Authority, the dwelling unit shall be considered an eligible dwelling unit. Provided further, that the family may occupy the unit, and assistance payments may begin, before all needed repairs are completed if the housing owner provides credible assurance that such repairs will be made promptly.*" These determinations must be made promptly. Without this requirement, many landlords will not participate. In addition, the Housing Authority needs the flexibility to allow move-in based on the landlord's credible assurance that needed repairs will be completed; this will avoid delay for the family. "Credible assurance" could be provided by the landlord's past history of responsible action, or by an enforceable agreement.
- 123,17 §351(b) Conflict of Interest for LMHA Units - "... are applicable to other owners; *provided, however, that the determinations under sections 328(a) and 354(b) shall be made at the expense of the Local Housing and Management Authority by a competent third party not affiliated with the Local Housing and Management Authority.*" The Housing Authority should not be permitted to make determinations that its own units meet quality standards and have reasonable rents.
- 123,18 §351 Late Payment Charge - "(c) *LATE PAYMENT CHARGE.—Each housing assistance payments contract shall provide that if the correct housing assistance payment is not received on or before the first of the month to which it applies, the Local Housing and Management Authority shall pay a late payment penalty to the housing owner in the amount of 10 dollars for each month or portion thereof that such payment is incorrect and/or late. (e) (d) PROVISIONS.— Each*" Under current law, there is no enforceable requirement that HAPs be paid correctly and timely. Such a requirement is consistent with private rental market practices, where late payment charges are universal. \$10 is a typical late payment charge. A fixed late charge is suggested, for simplicity.
- 126,7 §354(b)(1) Rent Reasonableness Determination - "... private unassisted market; *provided, however, that if such determination is not made within 3 business days following notification by the tenant or landlord to the Local Housing and*

Management Authority, the rent shall be considered reasonable." The Housing Authority must make the determination promptly. Without such a provision, many landlords will not participate.

124,2

§351(c) Provisions of HAP Contract - *"(4) provide that the housing owner, in its sole discretion, may restrict the number of units in the property that may be occupied by households assisted under this title; (4) (5) require the owner"* This provides the landlord protection against a future re-imposition of "take one, take all" or any similar unacceptable requirement. The suggested language permits an aggregate limit (i.e., 15 units) but does not permit the housing owner to designate specific units (in any event, designating specific units would violate the Fair Housing Act prohibition against steering).

126,18

§355 Rent Obligation After Resident Breaks the Lease - *"If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payments contract before the expiration of the term of the lease for the unit without giving the full advance notice required under applicable State or local laws, rental assistance pursuant to such contract may not shall be provided for the unit after the month during which the unit was vacated during the remainder of such required notice period (but not to exceed the lesser of (1) 30 days or (2) until the unit is re-rented) and shall not be provided thereafter."* Standard private market rental practice requires rent to be paid for the required notice period or until the unit is re-rented, whichever is less, when the tenant vacates during the lease term.

132,20

§381(a) Conversion of Project-Based to Tenant-Based Assistance - *"(a) IN GENERAL - At the time of termination of a HUD-administered program for project-based assistance for a subsidized project, the No owner of a such subsidized project shall not refuse to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the applicable rental-indicator payment standard for a comparable unit, as determined under section 305 353, to an assisted family under this title, a proximate cause of which is the status of such prospective tenant as an assisted family, and to enter into a housing assistance payments contract respecting such unit."* The existing language is too broad; it should be restricted to the time of transition, to ensure that sitting tenants' vouchers will be accepted. Afterwards, the project should be able to operate under the same rules as unassisted projects (the justification for imposing such a requirement on a project that is no longer subject to project-based assistance is questionable at best).

Suggestions For Purposes Other Than Increasing Landlord Participation

Page, Line Comment

- 116,6 **§324 Security Deposit** - assisted families typically cannot afford the normal security deposit paid by non-assisted families. The legislation should require families to pay a security deposit equal to their initial Resident Contribution. It also should provide that the LMHA will pay the difference, if any, between the actual security deposit and the standard security deposit paid by non-assisted tenants, to the extent the landlord can demonstrate damages beyond the amount of the actual security deposit. Landlords will demand the full normal security deposit, and if the legislation does not assist tenants in making the deposit, the program may have an unacceptably high failure rate.
- 121,22 **§328 Performance Reporting** - *“(f) PERFORMANCE REPORT.—For each fiscal year, each Local Housing and Management Authority shall report (1) the number of families offered assistance under this title; (2) the number of such families that secure eligible housing within 60 days of the date of the assistance offer; (3) the number of such families that secure eligible housing after 60 days; and (4) the number of such families that are unable to secure eligible housing. The report shall be provided to the Secretary and the Inspector General for the Department of Housing and Urban Development. The report, and all supporting data, shall be available to the Housing Foundation and Accreditation Board established under title IV and any auditor conducting an audit under section 432.” This is a minimum requirement for monitoring program performance.*
- 121,22 **§328 Electronic Data Requirement** - *“(g) ELECTRONIC DATA REQUIREMENT.—Each Local Housing and Management Authority shall maintain in an electronic form acceptable to the Housing Foundation and Accreditation Board established under title IV (1) records regarding the household composition, income, assets, allowances and eligibility of families receiving assistance under this title and (2) similar records regarding families that apply for assistance under this title. Such data shall be provided to the Housing Foundation and Accreditation Board and any auditor conducting an audit under section 432 upon request.” Such electronic data is necessary in order for the HFAB to monitor LMHA performance. Until the HFAB is established, this data should be maintained in TRACS format.*

Thank you for the opportunity to make these suggestions. NHP will be pleased to provide additional information, or to comment on related topics, at your convenience.

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Housing and Community
Opportunity, Committee on Banking and Financial Services,
House of Representatives

For Release on Delivery
Expected at
9:30 a.m.
Friday
Oct. 13, 1995

**HOUSING AND URBAN
DEVELOPMENT**

**Public and Assisted Housing
Reform**

Statement of Judy A. England-Joseph,
Director, Housing and Community Development Issues,
Resources, Community, and Economic Development Division



GAO/T-RCED-96-25

Mr. Chairman and Members of the Subcommittee:

As this Subcommittee deliberates legislation as part of the Congress's consideration of fundamental changes in federal housing policy, we are pleased to provide our views on some of the issues facing the future of public housing. The bill before you, H.R. 2406, would deregulate federal public and assisted housing programs and substantially increase local control over those programs, their implementation, and decisions about who benefits from them.

Current federal housing programs are seen as being overly regulated and as leading to warehousing of the poor, and the Congress is asking state and local governments to take a larger role in defining how the programs will work. Combined, these factors have led the Congress to reconsider the most fundamental aspects of public housing--whom it will house, the resources we devote to it, the amount of the existing stock we keep, and the rules under which it will operate.

My statement, which is drawn from our past reports and testimonies as well as ongoing work, addresses issues we believe merit consideration in your deliberations on H.R. 2406 and the future of public housing. (See app. I for a list of selected GAO products.) In summary:

- H.R. 2406 is one of a few key congressional initiatives seeking significant changes to several fundamental policies governing how public housing is provided. To be most effective, we believe these changes need to provide sufficient flexibility to housing authorities to accommodate the varying conditions they face in terms of the needs of their low-income families, their physical stock, its market value, and the availability of other affordable housing in the immediate market area. Furthermore, housing authorities will need an adequate

transition period within which to take advantage of reforms that allow a broader mix of incomes and attract more working families to public housing. A higher income base will increase housing authorities' rental income and decrease their need for federal operating subsidies. However, housing authorities that move in this direction likely will provide assistance to fewer families with very low incomes.

- H.R. 2406 contains provisions that simplify and consolidate the Department of Housing and Urban Development's (HUD) tenant-based assistance programs into block grants for assisted housing. This will likely lead to some of the benefits we have noted in supporting past proposals to merge HUD's Section 8 certificate and voucher programs.¹ The provisions in H.R. 2406 that expand local flexibility to establish fair market rents for areas smaller than those set by HUD could provide a wider choice of housing for those receiving assistance. However, fair market rents based on smaller areas have the potential to be more costly to the federal government in some markets and may actually decrease housing choice in others.
- A few large, urban housing authorities have been troubled for much of the past decade, and HUD's efforts to improve them have met with little success. If HUD decides or is required to take action against these or other troubled authorities, as it did when it decisively took over the

¹The Section 8 certificate and voucher programs both provide tenant-based assistance for lower-income households to obtain affordable, privately owned housing; they are similar in many respects but have some statutory differences affecting how much subsidy an assisted household receives. They are tenant-based in that if a family moves, it takes its subsidy with it. In project-based assistance, such as public housing, the subsidy is tied to the unit and the family loses the subsidy if it moves.

Chicago Housing Authority in May of this year, its attention and staff resources could be overly burdened by these few authorities. HUD's resources could be stretched even thinner if HUD's performance measurement system is underreporting the extent of troubled housing, as we and the HUD Inspector General have found in limited audit work.

- The long-term success of public housing may depend, in part, on housing authorities' ability to work with local governments and community organizations to better leverage the federal resources available for community and economic development. However, integrating public housing into the larger community faces some longstanding obstacles: little interaction between housing authorities and local governments, public housing residents' isolation from the broader community, and those residents' skepticism born from the failure of past community development efforts.

Before I address each of these areas, I would like to briefly discuss the history of the federal government's assisted housing policy and the various directions it has taken over the years.

BACKGROUND²

Since the inception of public housing in 1937, the Congress has periodically redefined who should receive housing assistance. In some cases, legislation targeted low- and very-low-income families for assistance. In others, the Congress sought to avoid concentrations of low-income families in public housing. For example, while the 1937 Housing Act allowed tenants to earn up to 5

²This section is drawn largely from Michael H. Schill, "Distressed Public Housing: Where Do We Go From Here?" University of Chicago Law Review (Spring 1993).

times the rent they paid for their homes, the 1949 Housing Act gave preference to assistance to the very poor.

From 1959 to 1974, a number of measures the Congress passed undid earlier provisions that had targeted the poorest and neediest families. For example, the Housing Act of 1959 eliminated the existing income ceiling, and the 1974 act required housing authorities to select tenants with a broad range of incomes. The Senate report that year expressed the hope for economically viable housing and a socially healthy environment. However, in the midst of these changes, the Congress also passed the Brooke Amendment in 1969, limiting tenants' rents to no more than 25 percent of their income. The Brooke Amendment is widely seen as an initial contributor to concentrating the poor in public housing. This concentration occurred because as tenants' income increased when they found employment or received pay raises, they faced corresponding rent increases from housing authorities charging the full 25 percent of income they were allowed. Over time, this caused working tenants to move out. This left behind greater concentrations of tenants who were unemployed or receiving other federal assistance.

In the early and mid-1980s, the pendulum continued to swing toward concentrating poor people in public housing. The Congress retargeted assistance to those with very low incomes in three key ways: (1) In 1981, it required that 90 percent of all current residents and 95 percent of the tenants in newly constructed buildings have very low incomes¹; (2) also in 1981, it raised tenants' contributions to rent payments to 30 percent of their income (to be phased in over 5 years) and eliminated rent ceilings, causing those with incomes at the upper end of eligibility for public housing to begin moving out; and (3) it mandated federal

¹These quotas were reduced to 75 and 80 percent, respectively, in later years.

rules that favored admitting to public housing those with little or no income, adding to the concentration in public housing of the very poor.

The long-term effects of these changes were a drop by nearly half in the average income of public housing residents (from 33 percent of median in 1981 to about 17 percent today) and a near doubling in housing authorities' need for operating subsidies (from \$1.5 billion in 1982 to \$2.9 billion in 1995).⁴ As rent increases were phased in, tenants at the upper limit of eligibility for public housing gradually began moving out. This year, both the administration and the Congress have proposed balancing the budget within a decade. For public and assisted housing, this could mean that some programs will need to be redefined so that they either require less funding and/or operate more efficiently under existing spending levels.

STRENGTHENING THE LONG-TERM VIABILITY OF PUBLIC HOUSING

H.R. 2406 proposes several significant changes for public housing that could strengthen the long-term viability of federally assisted low-income housing. The changes include altering the mix of tenants who will continue in project-based public housing and fostering new opportunities in tenant-based housing. To be most effective, these changes to public housing policy will need to provide sufficient flexibility to housing authorities to accommodate the varying conditions they face in terms of their physical stock, its market value, and the availability of other affordable housing in the immediate market area. Incorporating adequate time for housing authorities to transition to new ways of providing housing services will also help to ensure that the new policies are implemented successfully.

⁴In nominal dollars.

Project-Based Public Housing vs. Tenant-Based Housing Certificates

Earlier this year, we reported that HUD's proposed conversion to housing certificates raised concerns that HUD's analysis left largely unanswered.⁵ The proposal lacked the detailed analysis necessary to demonstrate that certificates would be a more cost-effective means of providing rental assistance. Moreover, HUD had not taken into account wide cost differences between conventional public housing and housing certificates at various developments. In some cases, the cost to the government of public housing is about half of what a housing certificate in that area would cost. In others, because of extensive modernization and rehabilitation needs of the housing stock, housing certificates are several times cheaper. HUD's analysis relied on average costs and did not reveal the wide differences in the cost of the two approaches we found at individual housing developments.

H.R. 2406 would allow public housing authorities to convert individual public housing projects to tenant-based assistance, but only those which have been determined to be (1) distressed or substantially vacant and (2) more costly to modernize and operate as public housing than the cost of tenant-based assistance in that area. H.R. 2406 also requires that the housing authority assure that an adequate supply of affordable private housing is available to make converting to tenant-based assistance feasible. This approach is a much more gradual, thoughtful, and orderly approach to "vouchering out public housing" than was proposed by HUD in its December 1994 Reinvention Blueprint and again in its March 1995 HUD Reinvention: From Blueprint to Action. HUD proposed to convert

⁵Our report Public Housing: Converting to Housing Certificates Raises Major Questions About Cost (GAO/RCED-95-195, June 20, 1995) suggested a development-by-development review because in some instances public housing may be less costly than Section 8 assistance.

all 1.4 million units of public housing to tenant-based assistance over a period of several-years.

We believe the development-by-development reviews contemplated in H.R. 2406 will go far toward helping housing authorities decide which federal housing assistance program is most appropriate. The reviews also provide the opportunity, as we concluded in our June 1995 report, to determine whether substantial sums of money could be saved by retaining public housing when it is cost-effective to do so. Because of the large number--13,200--of public housing developments, it will be important for housing authorities to use a consistent data collection and analysis methodology to ensure comparable results.

Determining Which Tenants Are Admitted to Public Housing

Changing the federal rules governing tenants' income and admission preferences will be among the most important statutory reforms needed to adjust to possible reductions in operating subsidies, according to the housing authorities with whom we recently consulted.⁴ Furthermore, substantial concern exists among public housing providers that funding reductions will happen all at once, while housing authorities will need years to lower their cost of operations by demolishing their most costly stock and changing their mix of tenants to produce increased rental income.

H.R. 2406 addresses some of these concerns by removing the one-for-one replacement requirement, allowing mixed-income developments, eliminating existing federal preference rules for admission to public housing (allowing locally developed preferences), and granting significant local discretion in setting

⁴These rules currently specify the means housing authorities use to determine the level of income residents may have, factors to consider in setting priorities for who is to be admitted to public housing, and how much rent residents must pay.

minimum and maximum rents. Housing authorities emphasized that they also need time to make rent reform work. Without a transition period to phase in new tenants with a mix of incomes, housing authorities have told us that the only way to meet some of the proposed reductions in operating subsidies would be to defer maintenance and planned modernization projects, lay off staff, and allow vacancies to increase.⁷ However, if they are allowed a transition period, several believed they could adapt their stock and their mix of tenants to meet reduced levels of funding for operating subsidies.

To illustrate the combined effect of a turnover of tenants and the admission of new tenants with a mix of incomes, we analyzed the interaction between these factors and the resulting adjustment time that a hypothetical well-run housing authority might need before the increased revenues from rent make up for the reduced federal subsidy (see app. II).⁸ For example, if the average income of the new tenants is 25 percent of the area's median income, then the adjustment period ranges from 3 years, when the turnover is high, to nearly 7 years, when it is low. However, if the average income of the new tenants is 30 percent of the area's median income, the adjustment period would be shorter, ranging from 2 to 4 years. Appendix II also shows the time periods needed, as new tenants' income varies from 21 to 50 percent of the area's median income.

⁷These authorities were speaking in reference to the recommendation in July of this year by the House Appropriations Committee to appropriate \$2.5 billion for operating subsidies in fiscal year 1996--a 14-percent reduction from the 1995 level, and \$2.5 billion for modernization--a 32-percent reduction from the original 1995 appropriation.

⁸For this analysis, we estimated the period this hypothetical housing authority would need to adjust to its share of the House Appropriations Committee's recommendation for fiscal year 1996 operating subsidies, \$2.5 billion.

This analysis confirms that housing authorities with high turnover rates will generally adjust faster. It also shows that housing authorities can further accelerate their adjustment periods--should budget pressures force them to do so--by using the flexibility H.R. 2406 allows to select new tenants with income at the upper end of the new eligibility limits. Adopting such a strategy, however, would necessarily come at the expense of admitting those very low-income people who, under current rules, are given preference for admission to public housing.

BENEFITS LIKELY FROM REFORMS TO TENANT-BASED ASSISTANCE PROGRAMS

H.R. 2406 envisions several key reforms to HUD's tenant-based housing assistance programs, including consolidating programs to provide block grant assistance and allowing greater latitude for local decision-making in the amount of subsidy that assisted households may receive.

In the past, we have supported other reforms that sought to simplify and consolidate HUD's tenant-based assistance programs, such as proposals to merge the Section 8 certificate and voucher programs.⁹ Ultimately, under a merged program, HUD and housing agencies would have one program to administer rather than two, and they would have fewer administrative record-keeping requirements. In addition, private owners would no longer have to meet different requirements for households receiving assistance through different programs. Finally, assisted households would be treated consistently, both in the housing subsidies they receive and in their choice of housing. HUD has already issued a unified set of

⁹Section 8 Rental Housing: Merging Assistance Programs Has Benefits but Raises Implementation Issues (GAO/RCED-94-85, May 27, 1994) and Rental Housing: Housing Vouchers Cost More Than Certificates but Offer Added Benefits (GAO/RCED-89-20, Feb. 16, 1989).

program requirements for the certificate and housing voucher programs in areas that do not differ because of statute.

To provide greater flexibility for local decisionmakers, a key reform in H.R. 2406 would allow housing management agencies to establish fair market rents for geographic areas smaller than the market areas covered by the HUD-established fair market rents. As we noted in our June 1994 report, this reform would allow fair market rents to more closely reflect rents in the smaller geographic area and could result in offering eligible households a wider choice of housing.¹⁰ Nonetheless, the approach has certain drawbacks. These include (1) the added cost of collecting and interpreting data to provide accurate estimates of fair market rents based on smaller areas; (2) increased per-family costs if assisted households move from market areas in which the fair market rents are reduced to areas in which they are increased; and (3) the potential for reducing housing choice in those areas with reduced fair market rents.

ADEQUACY OF HUD'S OVERSIGHT OF TROUBLED PUBLIC HOUSING
AND ALTERNATIVES TO CURRENT OVERSIGHT SYSTEM

HUD's limited oversight of troubled housing authorities has allowed some authorities to continue providing substandard service to their residents for years. Furthermore, HUD's performance measurement tool for all housing authorities, the Public Housing Management Assessment Program (PHMAP), may not be giving HUD a reliable indication of how many housing authorities are troubled and need management improvements. Coupled with proposals to dramatically reduce the size of the Department, some housing authority executive directors, industry associations, and housing

¹⁰Rental Housing: Use of Smaller Market Areas to Set Rent Subsidy Has Drawbacks (GAO/RCED-94-112, June 24, 1994).

consultants have said this creates a need to consider alternative oversight mechanisms for public housing.

H.R. 2406 seeks to provide a wider array of remedial measures HUD can, or will be required to take against poorly-performing housing authorities. These include a "death penalty"--a mandatory takeover by HUD for those large housing authorities that are currently troubled and have been for 3 years or more. Furthermore, H.R. 2406 establishes an accreditation system to replace HUD's existing management assessment process. Our review of HUD's oversight offers some lessons to consider in structuring federal oversight in a reformed public housing program.

Oversight of Troubled Housing Authorities

Unless HUD plays an active role in correcting the problems of the nonperformers, federal resources and the attention of key HUD staff could be overly burdened by a small number of authorities. HUD has consistently designated six large, urban authorities as troubled over the past decade. In the case of one of these--the Chicago Housing Authority--HUD had no choice but to take over the authority after the executive director and board of directors resigned earlier this year. At that point, the Chicago Housing Authority had been troubled for 16 years, during which HUD had tried several approaches short of taking direct control to improve conditions, none of which were successful.

In contrast, the overwhelming majority of housing authorities in this country are adequate performers, according to HUD's assessment system. Of the over 3,300 housing authorities that provide housing for approximately 3.2 million residents, HUD

currently classifies only 92 as troubled.¹¹ Thirteen of these troubled authorities are considered large, having more than 1,250 units. Six of the 13 large troubled authorities have been so for over a decade and account for almost 75 percent of all of the units of troubled authorities. Five of the six have been troubled since 1979, when HUD began designating poorly performing housing authorities as troubled.

Historically, HUD has made limited use of the authority it already has to take action against troubled housing authorities. The Secretary may declare an authority in breach of its contract with HUD for a variety of reasons, including its failure to provide housing that is decent, safe, and sanitary. Once an authority is found to have breached its contract, the Secretary may take it over, petition for the appointment of a receiver, or solicit proposals for new management.

On the occasions when HUD has exercised its authority to take over a housing authority, the results have been mixed. In late 1985, HUD took over the troubled East St. Louis Housing Authority and hired a private manager, who operated the housing authority from September 1986 until May 1992. The housing authority is no longer designated by HUD as troubled. In contrast, HUD's intervention with the Detroit Housing Authority was not as successful. HUD declared the Detroit Housing Authority in breach of its contract in October 1992 but never placed it in receivership or took it over. Currently, the Detroit Housing Authority remains on HUD's list of troubled authorities and has been unable to fill its top management positions despite significant technical assistance from HUD.

¹¹HUD classifies public housing authorities as "troubled" if they score less than 60 out of 100 points against a set of 12 performance indicators in the PHMAP.

More Housing Authorities May Be Troubled

HUD's Inspector General has reported that some housing authorities whose PHMAP scores were high enough that they were not designated as troubled should have had lower overall scores and, in some cases, should have been deemed troubled.¹² The consulting company that HUD hired to confirm some PHMAP scores also reported inflated self-reporting of performance by housing authorities. Recent limited work we have done generally confirms these results. Consequently, it is possible that requirements for HUD to take stronger action against troubled housing authorities would strain its resources and limit its ability to conduct effective oversight of the remaining authorities that are not troubled.

During recent visits to a limited number of housing authorities, we found differences in how they viewed the usefulness of PHMAP. For instance, officials at two of the six of authorities we visited told us that PHMAP provides little or no incentive for them to improve their operations if they are not troubled (or when they raise their score enough to no longer be troubled). They rely primarily on internal management objectives to run their authorities and view PHMAP merely as a reporting requirement. Other authorities, however, do use some of the PHMAP indicators as management tools to improve operations. Top management of these authorities told us that they hold their employees accountable for their performance on these PHMAP indicators.

¹²Audit Report of the Office of Inspector General--Limited Review of the Public Housing Management Assessment Program (PHMAP) (Feb. 4, 1993), Audit Report--Allegheny County Housing Authority (Jan. 13, 1994), and Audit Report--Peoria Housing Authority (Sept. 7, 1995).

Accreditation--One Potential Alternative to HUD's Public Housing Management Assessment Program

In addition to the findings by HUD's Inspector General and a consultant's confirmatory reviews, PHMAP has been criticized as inadequate for HUD's use in measuring the quality of a housing authority's management, for failing to recognize limitations and conditions unique to each housing authority, and for lacking a means to help a housing authority improve its performance when problems are found. H.R. 2406 proposes a significant change in federal oversight of housing authorities' management and performance by transferring much of this responsibility to a newly created Housing Foundation and Accreditation Board. As used in other industries, accreditation is a system independent of a federal regulatory agency to evaluate performance on the basis of industry standards.

H.R. 2406 requires that the Housing Foundation and Accreditation Board be composed of housing and real estate industry professionals as well as residents of public housing. It would be independent of HUD and would be charged with developing standards to measure housing authorities' performance; periodically reviewing how well housing authorities have met those standards; and, on the basis of those periodic reviews and selected other information, determining whether the housing authorities should receive accreditation. Only accredited housing authorities would be eligible to receive (or continue receiving) block grants to provide assisted housing.

The National Commission on Severely Distressed Public Housing has also advocated an accreditation system to better evaluate the effectiveness of public housing's management.¹³ The Commission felt

¹³The Final Report of the National Commission on Severely Distressed Public Housing (Aug. 1992).

that industry peers, with experience running housing authorities similar to those they are assessing, are in a better position to (1) develop relevant performance standards; (2) evaluate an organization against its own needs and requirements; (3) differentiate among conditions or issues of concern that may exist at one housing development but not at others; and (4) offer technical assistance that is specific to each authority, helps it learn how to meet accreditation standards, and improves management.

While our work over the past year--our review of HUD's oversight of large troubled housing authorities and our limited review of PHMAP scores--has shown that some changes are needed in the practices and policy of HUD's oversight, we are aware that alternative oversight mechanisms do not come without pitfalls. The existing accreditation systems in health care, education, and child services programs took years to develop and in some respects still need improvement. Therefore, the Subcommittee may want to consider issues such as membership composition of the board, the board's relationship to HUD, the source and amount of the board's funding, staffing for the board, and the scope of the proposed board's authority.

THE POTENTIAL FOR INTEGRATING PUBLIC HOUSING INTO COMMUNITY DEVELOPMENT

The pending changes in public housing, along with welfare reform and budget reductions, make it increasingly necessary that local governments, public housing authorities, and community residents work together to use available resources to make public housing a viable part of the broader community. To do so, however, will require (1) engaging housing authorities in community development activities, (2) reducing concentrations of public housing, and (3) overcoming residents' skepticism.

Historically, the housing authority has been responsible for carrying out federal public and assisted housing programs--relying on federal funds dedicated to it--with little interaction in broader community development activities. This structure has allowed the housing authority to be less than fully integrated into the community. However, the separation of the housing authority from the local government and the community has increased the isolation of public housing residents and has sometimes hampered housing authorities' ability to obtain other services for public housing. As we look toward comprehensive community development, whether through the Empowerment Zone and Enterprise Community program or through locally based initiatives, housing authorities will need to become stakeholders if meaningful change is to occur.¹⁴ Creating a sustainable community is a time consuming multistep process, and it may take many years before results are visible.

Our recent work in the area of community development shows that progress in this area is most difficult and challenging when there are large concentrations of public housing.¹⁵ One of the organizations we studied served an area that contained nearly 3,000 public housing units--one-third of the city's total units--many of which were vacant. While the organization successfully created over 300 jobs for community members by rehabilitating an area shopping center, rehabilitating and constructing affordable housing, and providing social services, the organization had difficulty involving the neighborhood's public housing residents in its activities. The organization's executive director told us that

¹⁴The Empowerment Zone and Enterprise Communities program was adopted in 1993 under the Omnibus Budget Reconciliation Act. This program promotes the comprehensive revitalization of selected distressed communities by funding broad, community-based strategic plans.

¹⁵Community Development: Comprehensive Approaches Address Multiple Needs but Are Challenging to Implement (GAO/RCED/HEHS-95-69, Feb. 8, 1995).

without reducing the concentration of public housing units by creating mixed-income developments, it would be hard to end the feelings of isolation experienced by public housing residents. Community development experts we interviewed agreed, saying that public policy has contributed to the isolation of public housing residents by concentrating low-income families in one place.

Overcoming residents' skepticism and ensuring residents' participation in community development efforts were a challenge in the communities we studied because of neighborhood conditions and the failures of past efforts to address the needs of residents. These organizations used a variety of methods to gain the trust of the residents. Each cited visible accomplishments--rehabilitated housing and economic development projects--as a factor in gaining the trust of residents and reducing their skepticism. However, one of the organizations said that it has yet to involve sufficient numbers of public housing residents in its efforts. In our work in Chicago, we found that residents have little confidence in the authority's ability to address even the most basic issues. The sentiment of the residents was that until their housing needs were taken care of, they could not concern themselves with their broader community.

CONCLUSIONS

In the face of significant pressures to balance the federal budget within a decade, H.R. 2406 includes several reforms that will likely improve the long-term viability of public housing, such as allowing mixed incomes among the residents of public housing and converting some public housing to tenant-based assistance when that makes the most sense. Additionally, it reforms tenant-based assistance programs so that they are simpler and more consistent in their treatment of the renters given assistance. We support the bill's provisions mandating the takeover of chronically troubled housing authorities because too often in the past, HUD has been

reluctant to take action on its own. However, we note that significant questions remain about the reliability of the oversight system that HUD uses to designate these agencies as troubled. Finally, we note that attempts to leverage all of the resources benefitting low-income families--such as those for public housing and community development--will likely face some long-standing obstacles.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions your or other Members of the Subcommittee may have at this time.

SELECTED GAO PRODUCTS

Public Housing: Status of HUD's Takeover of the Chicago Housing Authority (GAO/T-RCED-95-275, Sept. 5, 1995).

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Section 8 Rental Housing: Merging Assistance Programs Has Benefits but Raises Implementation Issues (GAO/RCED-94-85, May 27, 1994).

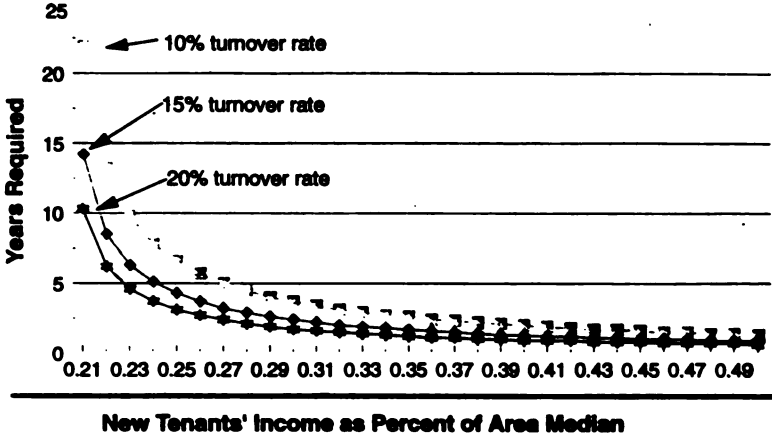
Housing and Urban Development: Major Management and Budget Issues (GAO/T-RCED-94-198, Mar. 10, 1994).

Rental Housing: Housing Vouchers Cost More Than Certificates but Offer Added Benefits (GAO/RCED-89-20, Feb. 16, 1989).

APPENDIX II

APPENDIX II

TRANSITION PERIODS HOUSING AUTHORITIES
NEED TO ADJUST TO REDUCED SUBSIDIES



Note: This hypothetical example reflects the following assumptions: the project has 100 units; its occupancy rate is 97 percent; the area median income where the project is located is \$30,000; the average income of the current tenants is 16 percent of area's median; tenants' rent contributions are 30 percent of their income; the monthly operating cost to the PHA to maintain the project is \$350 per unit; and the PHA is facing a 14 percent reduction in its operating subsidy.

STATEMENT OF
SUSAN GAFFNEY, INSPECTOR GENERAL

BEFORE THE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
COMMITTEE ON BANKING AND FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

ON
THE UNITED STATES HOUSING ACT OF 1995

OCTOBER 13, 1995

Chairman Lazio and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the proposed United States Housing Act of 1995 (H.R. 2406). From the vantage point of HUD Office of Inspector General (OIG) audits and OIG participation in Operation Safe Home, I would like to identify important reforms embedded in this legislation, as well as four areas where we believe further deliberation may be warranted.

Key Reforms

The proposed United States Housing Act of 1995 embodies a host of reforms that the OIG has long advocated. These include:

- Elimination of current statutory barriers to effective local program performance, such as the one-for-one replacement requirement, Federal preference rules, and many other detailed requirements over utilities, vacancies, etc.
- Consolidation and simplification of funding to housing agencies through block grants, which could be used for a variety of activities including housing operations, production, and modernization.
- Increased flexibility to housing agencies to leverage and combine their Federal assistance with other sources of assistance.
- Deregulation and decontrol of well-performing public housing agencies, thereby enabling HUD to focus on troubled agencies.
- Comprehensive community planning.
- Requirements that HUD deal aggressively with troubled housing agencies, and provision of additional tools for HUD's use in that process.

- Revamped tenant admission and eviction grievance requirements to enable PHAs to more effectively deal with problematic tenants involved in criminal behavior.
- Increased flexibility for housing agencies to resolve problems relating to mixed populations of the elderly and the disabled.
- Provision for mixed-income communities.
- Merging of the Section 8 housing certificate and voucher programs into a new choice-based rental voucher program, with a homeownership option, which would operate in a manner that more closely resembles the private housing market.
- Appropriate management controls, such as sanctions for noncompliance and nonperformance.

In addition, H.R. 2406 introduces the concept of a Housing Foundation and Accreditation Board, which would be responsible for reviewing and accrediting housing agencies and other assisted housing providers pursuant to established performance standards and guidelines. The Housing Foundation and Accreditation Board and the accreditation process are attractive means of regularizing the housing agency oversight process, lending credibility and status to well-performing agencies, and ensuring that HUD resources are freed to focus on turning around troubled housing agencies.

Overall, these reforms are very responsive to repeated OIG audit findings that i) most housing agencies function well; ii) well-functioning housing agencies are hindered, not helped, by Congressional and HUD micromanagement; iii) HUD's oversight and monitoring of housing agencies are inadequate; iv) abysmal conditions exist in the relatively few troubled housing agencies; and v) HUD is not moving aggressively enough to bring these agencies up to standard.

Areas Warranting Further Deliberation

While the OIG clearly supports the overall system envisioned by H.R. 2406, we suggest that the following four issues warrant your further consideration:

- overlap in the roles of the Housing Foundation and Accreditation Board and HUD;
- HUD's discretion and capability with respect to troubled housing agencies;

- the advisability of better defined national policy in such fundamental areas as targeting of assistance, tenant rents, and income exclusions; and
- the need to more explicitly address the violent crime problem that plagues many housing agencies.

Overlap In The Roles of the Housing Foundation and Accreditation Board and HUD

As noted above, the OIG generally supports establishment of a separate accreditation process for housing agencies as a means of better assuring a reliable, independent, more professional, and more credible quality assurance function over housing agency performance. However, we are concerned that:

- H.R. 2406 seems to contemplate that HUD monitoring will continue contemporaneous with the accreditation process; and the HUD monitoring will in fact result in a performance ranking system (and resultant program actions) separate and apart from accreditation. Under these circumstances, we risk confusion; making the Board into just another bureaucratic layer of review; accreditation s becoming a largely irrelevant exercise; and HUD's continuing to do business as usual.

Our suggestion is that the program oversight/performance ranking/quality assurance function be the sole purview of the Board and its staff and HUD's exclusive focus be on program policy and problem solving, with non-accreditation being the trigger for HUD problem solving. Concerns about the relative infrequency of accreditation could be allayed by, for instance, setting reporting requirements for the annual financial and performance audit that would cause an immediate accreditation review.

- In order to ensure a meaningful accreditation process, the Board and its staff should be squarely focused on this function. We suggest that the following types of ancillary duties would dilute this focus, and are more appropriately within HUD's bailiwick: measuring the performance and efficiency of HUD's deep subsidy" programs, including the public housing program and Section 8 tenant- and project-based programs; and establishing and making available management and computer systems, training, and technical assistance.

HUD's Discretion And Capability With Respect To Troubled Housing Authorities

The OIG has consistently cited HUD's lack of political will as a reason that some housing agencies have remained troubled for more than a decade. At a local level, the political ramifications of HUD intervention tend to be extensive. In order to insulate HUD from these pressures, we suggest reexamination of all provisions allowing HUD discretion in deciding whether or not to act decisively in reaching agreements with troubled agencies, taking them over, and conveying title.

In a similar vein, we note that H.R. 2406 allows for use of an enormously powerful sanction in the case of a troubled agency that has not met its 12-month performance targets: withholding of CDBG funds. However, this sanction is proposed to be discretionary on the part of the Secretary. While the OIG has long urged such use of CDBG, we recognize the political pressure that would result, and we ask that you reevaluate the prospects that the Secretary would be in a position to use this tool on a discretionary basis.

Finally, while we have argued for a division of labor between the Housing Foundation and Accreditation Board and HUD -- with HUD's role being focused on program policy and turning around troubled housing agencies -- we need to be extremely concerned about HUD's actual capability for providing substantive technical assistance and taking over troubled housing authorities. While HUD's budget provides approximately 1,500 staff and \$115 million in salaries and expenses for administering its public and tenant assistance programs, this effort has historically been directed at rule-making, monitoring, and problem identification. In this regard, the skills and experiences of many HUD public housing program staff may actually be better suited to the duties envisioned for the Housing Foundation and Accreditation Board.

The Advisability Of Better Defined National Policy

The OIG heartily supports the decontrol and deregulation of well-performing housing authorities. However, matters such as targeting of assistance, tenant rents, and income exclusions are fundamental to the public purpose to be served by this Bill, and we therefore suggest that H.R. 2406 provisions in these areas need to be better defined.

Bill provisions for the targeting of HUD's public housing assistance appear to have the effect of raising family income eligibility to 80 percent of area median income, when current public housing residents, on average, have incomes that are about 17 percent of area median income. While we recognize the dysfunction that has been caused by concentrating the poorest of the poor in public housing, it is important to keep in mind that i) in some parts of the country, 80 percent of median income is over \$40,000; and ii) the great latitude being provided in terms

of income eligibility will not be tempered by Federal preferences. We suggest that the income targeting provisions be reexamined, with possible further minimum targeting of lower income persons and/or a lowering of the overall income limit.

In addition, H.R. 2406 provides housing agencies with enormous discretion in setting tenant rents and applying income exclusions in determining program eligibility and rent levels. We suggest that these provisions need to be better defined, to ensure that such processes are fair, equitably applied by each housing authority, and support the national purpose of this legislation.

Addressing The Violent Crime Problem

Mr. Chairman, we are all aware of the crisis today in public housing -- single parent households in poverty, aging and deteriorating high-rise properties, high vacancies, community isolation, and so on. But there is another crisis that we tend not to talk about, namely that many public housing sites are the breeding grounds for violent crime, including drug-related crime.

Because of our involvement in Operation Safe Home, the HUD OIG knows a lot about this violent crime problem. We know that gang violence and intimidation, gunfire, firebombings, assaults, drug wars, and shootouts are all too common at some of our public housing locations. In some cases, gangs control entire floors of public housing buildings or even entire buildings.

As you are well aware, H.R. 2406 contains a number of specific provisions that will better equip housing agencies to deal with the crime problem. These provisions relate to strengthened processes for screening potential residents; strengthened and streamlined processes for evicting residents who threaten the well-being of other residents; police residency; improved capability to deal with dysfunctional situations involving mixed populations of the elderly and disabled; and relocation of witnesses to violent crime in order to secure their testimony without jeopardizing their lives.

We believe, however, that H.R. 2406 can and should address the violent crime problem in a more explicit and fundamental manner. We are recommending that:

- Housing agencies be specifically required to address crime prevention efforts in their Community Improvement Plans -- as a result of a collaborative effort with local law enforcement;

- the Bill's required local cooperation agreements provide for more involvement and cooperation by housing agencies and local law enforcement in the area of police protection and law enforcement; and
- the Bill single out security and law enforcement as eligible cost items under the block grants.

In short, we need to make it clear that violent crime is a priority problem, and we expect the housing agencies and local law enforcement to be working in a fully cooperative and collaborative fashion to address it.

While we are convinced that the long-term answer to the violent crime problem is housing agency/local law enforcement collaboration, it is equally clear that this process needs a jump start. And that is the purpose of Operation Safe Home -- to bring Federal, State, and local law enforcement together with housing agency management and residents to attack the violent crime problem, collaboratively, both from an enforcement and a prevention perspective. We are making great strides in mobilizing resources under the Safe Home banner, and we have already achieved some important successes.

To keep this momentum, we are requesting that H.R. 2406 specifically authorize technical assistance funding for public housing crime prevention to be funded out of the Secretary's Headquarters Reserve Fund. With the Bill's repeal of the public Housing Drug Elimination Grant Program, this will ensure that a source of funding is available to continue our current efforts to assist housing agencies and localities in the campaign against crime and violence in public housing.

Mr. Chairman, this concludes my testimony. I applaud your efforts to reform the public housing delivery system, and I thank you for the opportunity to discuss H.R. 2406 at this hearing. I would be happy to answer any questions you or other Members of the Subcommittee may have.

**TESTIMONY BEFORE THE HOUSING AND COMMUNITY
OPPORTUNITY SUBCOMMITTEE OF THE HOUSE BANKING
& FINANCIAL SERVICES COMMITTEE**

**WASHINGTON, DC
OCTOBER 13, 1995**



**REMARKS PREPARED FOR
SECRETARY HENRY G. CISNEROS**

Mr. Chairman, thank you for inviting me here this morning. I appreciate the opportunity you and the members of your subcommittee have given me to discuss the proposed "United States Housing Act of 1995."

I think it is fitting that the Subcommittee's first major legislative vehicle focuses on public housing -- because the transformation of public housing remains our biggest mutual challenge and responsibility. At the outset, however, I want to note that the views I am expressing today reflect only the views of the Department and not necessarily those of the Administration.

Since 1937, the Federal government has invested some \$90 billion in the Federal housing inventory. The legacy of that investment is mixed.

On one hand, public housing provides a stable supply of rental housing that is affordable to families with very low incomes. Approximately 1.3 million households live in public housing developments operated by some 3400 public housing agencies. Approximately 45 percent of these households are families with children, 35 percent are elderly, and another 10 percent are people with disabilities.

For these people, public housing provides a real, tangible response to the failure of the private market to provide sufficient housing at affordable rents. Nationally, the supply of affordable housing units falls well short of the demand -- by about 4.7 million units. That gap would be far greater without public housing or other forms of federal housing assistance.

But despite serving this critical function, the current public housing system is plagued by a series of deeply-rooted and systemic problems. Concrete high rises have become vacant shells, scarring the urban landscape. Other projects are beset by crime and gang activity. The very names of some places -- Cabrini Green, Robert Taylor Homes, Desire -- haunt the American imagination. Other problems exist in the 100-odd public housing agencies that are classified as troubled entities.

Change is needed. Far reaching reform is warranted. But long-lasting reform must respond to the full scope of the problem. I think it is helpful if I review briefly our perception of the problem as well as the key components of our reinvention initiative, before we focus on the committee's proposed solutions.

Key structural problems afflict the current public housing system.

First, public housing concentrates the very poor. The average income of families living in public housing is currently around 17 percent of area median income, or \$6300. This is a relatively recent phenomenon. In 1980 for example, the average income of families living in public housing was about 33 percent of area median income. Congressional decisions during the past decade and a half -- particularly federal laws governing admissions and rents -- compelled public housing agencies to serve those low-income families experiencing the greatest distress.

Second, public housing is itself concentrated in high poverty neighborhoods. Due to deliberate local siting decisions, public housing tends to be located in areas lacking jobs, economic opportunities and basic amenities. This experience contrasts sharply with that of section 8 certificates and vouchers. A recent General Accounting Office (GAO) study of four metropolitan areas indicated that fewer than 10 percent of Section 8 recipients live in high poverty neighborhoods (i.e. neighborhoods that are more than 30 percent poor). In contrast, 23 percent of public housing residents live in such high poverty neighborhoods.

Third, federal laws penalize public housing tenants who work. They discourage employed families from working ... and working families from staying. Public housing rents set at 30 percent of a family's adjusted income, penalize families who want to work -- by taking away 30 cents of every additional dollar they earn and a higher portion of their after tax income. In addition, rents charged for families who are already working are often far higher than that which the unit would command in the private market since rents are based purely on income. As a result, residents who would provide the best role models -- people who work and who could help others find jobs -- are often the first to leave.

Fourth, the discipline of the real estate market does not apply to public housing. The current system empowers a distant, federal bureaucracy to ensure that public housing agencies perform well in maintaining and administering their housing stock. Residents who are in the best position to identify management deficiencies and compel changes are denied the ultimate tool available to consumers -- the ability to take their business elsewhere. No matter how poor the physical condition of the apartment, no matter how crime-ridden or economically depressed the neighborhood in which the housing is located -- subsidies are tied to housing units and cannot be transferred.

Finally, the federal method of overseeing the public housing industry aggravates all these problems. Federal statutes and rules regulate every aspect of public housing, including admissions, rents, evictions, resident rights and relations,

modernization, development and procurement. The system is awash in process and paperwork, in adhering to guidelines, and filling out forms. For the past two and a half years, HUD has attempted to end federal micromanagement by streamlining and simplifying the rules governing nearly every aspect of public housing management, eliminating dozens of handbooks and guidelines in the process. Yet the underlying public housing statute -- the 1937 Housing Act -- remains an impediment in many areas.

These are the root problems that real reform must address.

This March, I submitted the President's Reinvention Plan for HUD to Congress. Perhaps the most far-reaching component of HUD's Reinvention is a simple, yet profound, plan to transform public housing. Where the current system gives public housing agencies capital and operating subsidies to maintain projects, we will give families rental vouchers -- that could be used in public housing or a private apartment of their own choice. Where the current system relies on a complex, complicated array of rules and regulations to oversee the performance of agencies, we will rely on families to decide whether management has performed well.

The reinvention proposal envisions an orderly and prudent transition to prepare agencies and residents for the shift to a market environment. We had three stages in our proposal:

During the first transition stage, beginning in fiscal 1996, HUD would consolidate dozens of disparate public housing programs into two accounts: one for capital and management improvements, and one for operations. The nation's 3,300 well-performing public housing agencies will be able to modernize units which are worth improving and to tear down units that are not worth saving. Many of the basic laws governing public housing -- one-for-one replacement, federal preference rules, restrictions on the modernization program -- would be either repealed or dramatically altered.

During this time, HUD would focus its full attention on the 100 agencies that continue to exhibit severe management deficiencies. To this end, we seek new, enhanced powers, and intend to intervene aggressively to turn these agencies around.

In the second transition phase, existing capital and operating subsidies would be converted to project-based assistance, and agencies would learn to operate under market discipline. Rental income -- instead of arbitrary capital and operating budgets -- would drive their property-management decisions.

In the final phase, all subsidies would be converted to tenant-based assistance.

Those are the three stages of our plan to transform public housing, and that Reinvention proposal is the prism through which I have evaluated the Lazio bill.

I have had some opportunity to read the legislation and discuss it with staff. The Subcommittee appears to have adopted the first stage of our proposal, which is profound in itself.

It adopts program consolidation and merges tenant-based vouchers and certificates.

It eliminates the one-for-one replacement rule which requires public housing authorities to replace every unit they tear down with a new housing unit.

It encourages income-mixing.

It streamlines the modernization program.

It provides the Department enhanced powers when assuming control of troubled public housing agencies.

And it continues and accelerates the deregulatory track that has been pursued by the Department for the past two and a half years.

But the bill stops short of empowering the people who live in public housing and eliminating the worst public housing projects because it continues to wed federal funding to buildings and bureaucracies, rather than to people.

Even more problematic, the bill gives public housing agencies unfettered discretion in the areas of income targeting, preference rules and rent restrictions. Given the dramatic reduction in public housing subsidies, local agencies will be compelled to exercise this discretion in a way that disproportionately harms the poorest households, including the elderly.

In essence, what you have proposed is a federal block grant that devolves responsibility to 3,400 public housing agencies across America. As with all block grants, the key to success is the balance struck between local flexibility and program accountability.

I think in its current form the legislation swings the pendulum way too far -- towards unfettered control by local bureaucracies and away from prudent national standards and appropriate federal oversight. Let me illustrate this point by discussing a few points of contention which I hope we can resolve together.

The first point of contention concerns the bill's proposed funding level for public housing.

The Subcommittee bill would authorize \$5.5 billion for a consolidated public housing program.

That authorization level represents a 31 percent cut from last year's pre-rescission appropriations. It is about a \$1.5 billion reduction from the post-rescissions appropriations. And it is below the funding levels assumed in the Congressional Budget Resolution and the Senate appropriations bill.

The impact of these proposed funding reductions would be stark and immediate. Preventive and routine maintenance will be curtailed, security and social services cut back, and anti-crime initiatives eliminated. Efforts to address the backlog of capital needs in public housing will be seriously impeded.

The inevitable deterioration in developments will negatively impact not only public housing residents but surrounding neighborhoods and will prevent PHAs from attracting higher income residents to public housing -- a goal shared by the Administration and the Congress.

These funding reductions, when combined with the sunset of the low income housing tax credit, the cessation of any incremental rental assistance and a 30 to 40 percent cut in homeless assistance, will also have major implications for the ability of the nation to address its affordable housing crisis. We can fully expect the trendlines in affordable housing -- worst case needs, homelessness, housing supply -- to head in the wrong direction.

It does not have to be this way. These funding decisions represent choices by this Subcommittee and other Committees to have a disproportionate share of the deficit reduction burden borne by public housing and other programs serving low income families. I strongly urge the Subcommittee to reconsider its proposed authorization levels and fight within the upcoming appropriations conference for prudent and responsible funding for public housing.

The second point of contention is over the bill's dramatic relaxation of current income targeting rules.

The issue of income targeting exposes a central tension in public housing today: a tension between targeting government resources to those who most need help, and the need to mix working families with those on welfare.

We need to reconcile this tension.

Our policies should promote economic integration. We should encourage income-mixing and give dependent families role models: families that are living links to the working world. For two and a half years, I have crisscrossed America, speaking about the pathologies we create when we concentrate poor people in dense, dangerous housing projects, cut off from the economic and social mainstream.

Residents need income-mixing. So do public housing authorities. They need working families to help pay higher rents to make up for some of the operating subsidies which Congress is cutting.

Nevertheless, this bill tips the balance too far. The bill would allow all public housing units to be filled by households earning up to 80 percent of the area's median income. By contrast, 85 percent of current public housing residents have incomes below 35 percent of their area median.

The bill would also remove existing statutory provisions which require that at least 75 percent of newly admitted residents in particular developments have incomes below 50 percent of area median.

The bill would couple this dramatic relaxation in current income targeting rules with a repeal of all federal preferences for admission. Currently, public housing agencies are required to target 50 percent of their vacancies or new admissions to people with worst case housing needs. With a return to local preferences, PHA's will be free to reach down their waiting lists and skip over poorer families to attract higher income people.

I strongly fear that the combination of proposed changes in federal preference and income targeting rules alone will, overtime, alter the fundamental mission of public housing: to serve poor and low-income Americans unable to find decent and safe shelter in the private housing market.

But this bill goes even further by ending the current practice of linking public housing operating subsidies to the rents actually charged residents. By severing this link, the new block grant would actually penalize public housing agencies that serve poorer residents -- further supporting the likely trend towards serving tenants with relatively high incomes.

We need to be clear what 80 percent of area median income means.

In St. Louis, 80 percent of area median income for a family of four is \$35,700 -- 236 percent above the poverty line.

In Baltimore, 80 percent of area median income is \$39,500 --

261 percent above the poverty line.

In Newark and Boston, it's more than \$40,000.

Is this the purpose of public housing? Should we use scarce federal dollars to subsidize families making enough money to afford an average private rental in their markets?

We also need to be clearer about what public housing means in a lot of American communities. Given recent capital expenditures, in some communities the best, if not the only, affordable, low-income housing is public housing.

If we, in effect, remove income limits, we could quickly move out of a public program designed to help lower-income and poor people, and be left, five years down the line, with a much more severe affordable housing shortage and even more homelessness.

In addition, by giving public housing agencies carte blanche to determine when and where to income mix, we could create situations where very low-income families continue to be concentrated in distressed developments while higher income families are permitted to reside in better located and maintained housing.

Think what these income targets would do in tight housing markets where public housing has relatively high market value -- in places like Cambridge, Massachusetts, or New York City.

Who would be served and who would be pushed into the streets?

I ask that the Subcommittee reconsider its income targeting provisions and work with the Administration to reach some acceptable middle ground.

I would offer two suggestions. First, the Senate public housing reform bill requires 40% of all public housing units to be filled by households earning less than 30 percent of the area's median income. That's a start in the right direction. But I would go even further and use the low income housing tax credit targeting of 60% of area median as the upper limitation for the public housing program. That will give public housing agencies more than sufficient latitude to mix incomes in affordable housing developments.

The third major point of contention is over the termination of any meaningful rent protections in the public housing program.

The Subcommittee bill repeals the Brooke amendment in public housing, which has capped tenant rent contributions since 1969.

The bill would replace Brooke with (1) a minimum rent of \$50 a month; and (2) a Federally mandated ceiling rent based on market value or operating costs. Public housing agencies would be given total discretion to set rents between these minimum and maximum levels.

I have grave problems with the Subcommittee's action in this area. The bill will lead to rent increases for the most vulnerable households with the lowest incomes, particularly those living in low-wage and low-benefit states.

The median income for public housing residents is approximately \$6,300. A minimum rent of \$50 would increase the rents paid by approximately 132,000 public households by an average of \$346 per year.

But it is highly likely, given the reduction in operating subsidies and the repeal of the Brooke amendment, that public housing agencies will raise rents more substantially for a larger number of households.

I believe the Subcommittee action is simply unfair, inequitable and unwarranted.

The Subcommittee's action would compound severe reductions in other Federal programs serving many of the same poor families. The Congressional budget resolution, for example, already assumes \$100 billion in savings from means-tested entitlement programs, including the Earned Income Tax Credit, AFDC, food stamps, child care and child nutrition programs. The budget resolution assumes another \$182 billion in savings from Medicaid. There are many families in public housing who now are barely juggling the costs of basic necessities like shelter, food, clothing, transportation and child care. How they will cope given increases in their rents is difficult to contemplate.

I believe that public housing agencies should be asked first and foremost to take other actions necessary to compensate for reductions in operating subsidies before raising tenant rents; for example, weeding out inefficiencies in their operations or demolishing troubled inventory. I note that the Senate public housing reform bill is more judicious in its approach to rent-setting, retaining the Brooke protections for families below 30% of area median and permitting public housing agencies to set minimum rents not to exceed \$30.

I think the best approach is contained in the Senate appropriations bill: retain Brooke, set a minimum rent of up to \$25, and permit public housing agencies to set ceiling rents and disregard earned income from families who make the transition to work. The Senate appropriations bill correctly focuses on the need to mix incomes in public housing and raise revenues without

unduly harming the most vulnerable families and elderly persons. I strongly urge the Subcommittee to consider this approach.

The fourth major point of contention is over the extent to which public housing agencies will continue to be accountable to residents, taxpayers and the public trust.

The quid pro quo of giving local entities greater flexibility and latitude in the operation of federally-funded programs must be the insistence on accountability.

Financial safeguards must be put in place to ensure that federal funds serve intended beneficiaries and are not subject to fraud, waste and abuse. Performance measures must be developed and monitored to ensure that local agencies carry out their public trust pursuant to national goals and objectives.

The Committee bill would establish a two-tier system of program accountability and federal oversight. On the front-end, the bill would require public housing agencies to develop strategic plans for their operation of public housing in this new, deregulated environment. Such plans must be developed in consultation with relevant constituencies and can be submitted to HUD only after a public hearing. The Secretary would be given limited review powers.

On the back end, the bill would establish a new Accreditation Board composed principally of representatives from the public housing and real estate industries. The Board would be given the responsibility to establish performance benchmarks and perform oversight and auditing functions. The Board would have jurisdiction over both public housing and "deep subsidy" project-based assisted programs and would be funded through fees imposed on the public housing agencies. HUD would retain certain enforcement powers to remedy management deficiencies in agencies that are inferior performers and are deemed troubled or dysfunctional by the Board.

I think there are two areas that deserve close attention and scrutiny. First a bureaucratic system only goes so far in ensuring good sound consistent management practices. The core motivation of HUD's reinvention plan was to give residents the market power to influence the adequacy of local management. HUD's reinvention subjected local agencies to the market test of consumer choice, not to the less reliable indicator of performance measurement systems.

I think performance measurement can work if it measures the right things and if the federal government is given appropriate and meaningful oversight. I think the notion of an Accreditation Board -- to instill greater professionalism in the public housing industry and to perform several oversight functions -- is an

intriguing one. Such a Board could bring together individuals with real-life management skills and expertise and provide a level of practicality that all too often was missing from HUD guidance and actions in the past.

Yet an independent Accreditation Board also raises, as you will appreciate, many difficult questions. Ensuring performance accountability among federal grantees clearly involves a spectrum of functions and tasks -- technical assistance and support, the establishment of performance measures, the oversight of performance, enforcement where performance is inferior and so forth. Which roles are uniquely the federal government's and which functions can be assigned or delegated to an independent entity need to be explored with great care.

There are other questions as well.

What is the composition of the Board? What key interests need to be represented?

How large will this new entity need to be? Who will staff it?

What should the entity's relationship be to HUD? Will HUD retain independent audit and enforcement powers, to protect public housing residents and taxpayers when it sees the need? Will HUD retain the ultimate right to approve the performance standards?

To whom is the Accreditation Board accountable? How can we best assure that the entity is independent, objective, apolitical and will make the tough evaluation decisions needed?

What should be the entity's scope? Is it wise to have the entity cover all the deep subsidy housing programs, as the bill proposes?

Will the Board ensure that public housing agencies serve a public purpose -- that they house very low income families or charge reasonable rents?

Clearly, there are many questions which need to be explored before we proceed with a change of this magnitude. I am committed to work closely with you and your staff to ensure that this idea receives a meaningful, substantive hearing.

The second area of attention -- whatever is decided on the Accreditation Board -- must be on building the capabilities of public housing professionals. I believe that both local agency staff and HUD personnel are not adequately prepared for the transition to this new framework -- where local agencies are expected to be more entrepreneurial, where HUD staff are expected

to be more supportive and less intrusive. If we are going to have responsible devolution, we need to significantly expand the quality and quantity of the training that is available to this industry. Existing funding is not sufficient for the current program; it is even less so when we contemplate the major changes that are about to be made.

The fifth major point of contention is over the treatment of our most troubled housing stock, some 100,000 units nationwide, which we call severely distressed public housing.

These are the projects that trap people. They are the most dangerous and the most costly. They also represent the strongest possible case for conversion of project-based subsidies to vouchers and certificates, as envisioned by HUD's reinvention plan.

The Subcommittee bill acknowledges this by requiring such conversion when a building is distressed or substantially vacant, the conversion would be cost-effective and there is a sufficient supply of affordable and available housing. These determinations, however, would be made only "to the extent necessary" and outlined in the community improvement plan submitted by the public housing agencies.

I believe the bill is far too cautious about dealing with this portion of the public housing inventory. Any objective observer would conclude that these distressed developments have long outlived their usefulness and are now more harmful to tenants and neighborhoods than beneficial.

My fear is that, in many communities, local politics and pressures won't allow public housing agencies to move expeditiously to demolish projects that should come down. Right now, many public housing agencies are continuing to commit substantial federal resources to rehabilitate projects that should be demolished. This bill will not alter that reality; instead, the rehabilitation of badly sited projects will continue -- wasting scarce federal resources and establishing the next generation of failed projects.

Some sites should not be rehabilitated. If HUD does not have the power to say that, we risk allowing public housing agencies to invest new funds in projects that may, ultimately, have to come down at a future date. If HUD does not have the power to expand the eligible uses of existing funds -- from modernization to tenant-based assistance -- federal funds will continue to be invested inefficiently.

The Subcommittee bill recognizes elsewhere that HUD needs enhanced powers when it takes over troubled public housing agencies. I would strongly argue that the same logic should

apply to the distressed inventory. As a former Mayor, I fully accept the notion that there are times when the threat of federal intervention is the key catalyst for "doing the right thing". I would strongly suggest that dealing with the distressed inventory is one of those times.

The final major point of contention concerns the bill's treatment of section 8 rental assistance.

As with the bill's public housing title, there are several proposals for revising section 8 which would generally improve the administration and effectiveness of this critical program. The separate voucher and certificate programs would be merged. Various rules which have impeded the participation of good landlords in the program -- onerous notice requirements, the "take one, take all" provision -- would be eliminated.

But the bill makes a number of reforms to the section 8 program that I think are ill-advised and counterproductive. As with public housing, the bill would set the income eligibility level for section 8 at 80 percent of area median and would permit public housing agencies to establish their own preference system for allocating this scarce assistance. This is a far more dramatic change than for public housing, because current law sets a tighter standard for income eligibility (e.g. 50% of area median) and requires that 90% of new recipients meet federal preferences. The bill would also track the proposed public housing rent provisions by repealing the Brooke amendment and giving public housing agencies total discretion in the setting of rents (except that a minimum rent of \$50 would be mandated). Finally, the bill would prohibit portability.

As with public housing, these changes could result in converting a housing program that is carefully targeted on serving very low-income families with worst case housing needs into one that serves moderate income families with minimal need for such assistance. Whereas the public housing changes are fueled by a desire for greater economic integration -- a laudatory goal -- it is not clear what is driving applying these changes to the section 8 program.

The history of section 8 is radically different than that of public housing. In most communities, the Section 8 tenant-based program naturally achieves economic integration because it allows poor families to live in mixed income residences and neighborhoods. Thus, recipients of rental aid tend to be more widely dispersed throughout the rental market than residents of public housing. With program reforms greater outreach by the public housing agencies and counseling to recipients, that record should improve.

Lifting the income limits and severing any link between

housing needs and preferences will not cure any serious deficiency in the existing program. It will, however, mean that a scarce federal resource could be distributed in ways that are difficult to defend in times of severe fiscal constraints. We are getting maximum "bang for the buck" with the existing section 8 program; radical change is simply not called for.

There are obviously many issues of lesser importance as well as technical comments which the Department would like to share with the Subcommittee. I will transmit a full analysis and evaluation of your bill as quickly as possible.

I hope, in the coming weeks, we can do more to bridge some of the goals of this legislation to the details within.

I look forward to working with you towards that end.

Thank you. I welcome your questions.

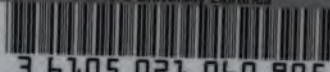
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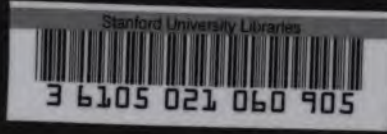
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